

SPECIAL SESSION

JOURNAL OF THE FLORIDA SENATE

Tuesday, June 22, 1971

The Senate was called to order by the President at 10:00 a.m.
A quorum present—46:

Mr. President	Deeb	Johnson (34th)	Reuter
Arnold	de la Parte	Karl	Saunders
Barron	Ducker	Knopke	Saylor
Barrow	Fincher	Lane	Scarborough
Beaufort	Gong	Lewis (33rd)	Stolzenburg
Bell	Graham	Lewis (43rd)	Trask
Bishop	Gunter	McClain	Ware
Boyd	Haverfield	Myers	Weissenborn
Brantley	Henderson	Ott	Williams
Broxson	Hollahan	Plante	Wilson
Childers	Horne	Pope	
Daniel	Johnson (29th)	Poston	

Excused: Senator Trask periodically for the purpose of meeting with members of the House on tax matters, Senator Brannen.

Prayer by Senator Beaufort:

Our Father and our God, we come to thee this morning asking that thy holy will shall be one in us this day. Give us wisdom to know the truth, courage to follow thy direction and understanding hearts that will give us the sense of thy holy presence.

Father we have labored long and hard for the people of this great state. We pray that what we have done in these hallowed halls will meet with your approval. Bless us now O Lord as we continue to labor in thy name. Amen.

The Journal of June 21 was corrected and approved as follows:

Page 59, counting from the bottom of column 1, line 26, strike "19" and insert: 18

Page 60, counting from the bottom of column 2, lines 10 and 11, strike "providing for taxation;"

Page 61, counting from the bottom of column 1, strike line 7 and insert: ~~than one per cent by weight for consumption off the premises~~

Page 69, column 1, line 4, after "were" insert: read the first time by title and

Page 69, counting from the bottom of column 1, between lines 1 and 2, insert:

Evidence of notice and publication was established by the Senate as to SB 50-C.

The Journal of June 17 was further corrected and approved as follows:

Page 53, column 1, strike lines 6, 7 and 8 and insert:

Mallory E. Horne	Beth Johnson (29th)
George L. Hollahan, Jr.	Tom Johnson (34th)
Frederick B. Karl	Ray C. Knopke
Jerry Thomas	Gerald A. Lewis (43rd)
Dempsey J. Barron	Philip D. Lewis (33rd)
William D. Barrow	David H. McClain
C. W. (Bill) Beaufort	T. Truett Ott
W. E. Bishop	Kenneth Plante
John R. Broxson	Ralph R. Poston
C. Welborn Daniel	Bob Saunders
Louis de la Parte, Jr.	Dan Scarborough
John L. Ducker	Alan Trask
Dick Fincher	John T. Ware
Bill Gunter	J. H. Williams
Robert M. Haverfield	Harold S. Wilson

INTRODUCTION

On motion by Senator Myers, SCR 34-C was admitted for introduction and consideration by the required two-thirds vote of the membership. The vote was: Yeas—40 Nays—None

Mr. President	de la Parte	Johnson (34th)	Reuter
Arnold	Ducker	Karl	Saunders
Barrow	Fincher	Knopke	Saylor
Beaufort	Gong	Lewis (33rd)	Scarborough
Boyd	Graham	Lewis (43rd)	Stolzenburg
Brantley	Gunter	McClain	Trask
Broxson	Haverfield	Myers	Ware
Childers	Henderson	Ott	Weissenborn
Daniel	Hollahan	Plante	Williams
Deeb	Johnson (29th)	Poston	Wilson

By Senator Thomas—

SCR 34-C—A Concurrent Resolution requesting the parole and probation commission to review certain prior convictions under Florida Statutes relating to marijuana and other derivatives of the hemp plant.

WHEREAS, Chapter 71-107, Laws of Florida, Regular Session 1971, has reduced the penalty for a first conviction of the possession of five (5) grams or less of cannabis to a misdemeanor, and

WHEREAS, many people, including a large number of young persons have been convicted under the provisions of the Florida Statutes as they now apply with regard to a first offense, and

WHEREAS, gross inequities, which result in a situation of unequal justice for first offenders and a double standard regarding penalties should be eliminated as quickly as possible, and

WHEREAS, the parole and probation commission is responsible for reviewing convictions under the present statutes regarding cannabis, NOW THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

Section 1. The parole and probation commission is urged to review, as soon as practicable after the adoption of this resolution, convictions of first offenders who were convicted of possession of not more than five (5) grams of cannabis prior to the adoption of this resolution and to grant parole to any person who has served at least twelve (12) months of his sentence.

Section 2. The parole and probation commission is urged to take any steps necessary and practicable to comply with the intent of this resolution and to eliminate completely the possibility that two (2) individuals, convicted of the same crime, shall be treated inequitably and unfairly under our system.

Was read the first time in full. On motion by Senator Myers, by two-thirds vote, SCR 34-C was read the second time by title, adopted, and certified to the House. The vote was: Yeas—39 Nays—None

Mr. President	de la Parte	Johnson (34th)	Reuter
Arnold	Ducker	Karl	Saunders
Barrow	Fincher	Knopke	Saylor
Beaufort	Gong	Lewis (33rd)	Scarborough
Bishop	Graham	Lewis (43rd)	Trask
Boyd	Gunter	McClain	Ware
Brantley	Haverfield	Myers	Weissenborn
Broxson	Henderson	Ott	Williams
Childers	Hollahan	Plante	Wilson
Daniel	Johnson (29th)	Poston	

SB 35-C was delivered to the Committee on Rules, Calendar, Privileged Business and Ethics for consideration and advice as to whether same is within the purview of the call of the Governor.

By Senator Fincher—

SB 36-C—A bill to be entitled An act relating to municipal millage limitation; amending section 200.131(1), Florida Statutes; amending expiration date of this section; providing for an effective date.

SB 36-C was determined by the President to be within the purview of the call of the Governor, was read the first time by title and referred to the Committees on Rules, Calendar, Privileged Business and Ethics and Ways and Means.

Senate Bills 37-C, 38-C, 39-C, 40-C were delivered to the Committee on Rules, Calendar, Privileged Business and Ethics for consideration and advice as to whether same are within the purview of the call of the Governor.

By Senator de la Parte—

SB 41-C—A bill to be entitled An act relating to municipal financial assistance; providing a program of grants to municipalities; providing requirements for eligibility for receipt of grants; providing an allocation formula; providing an appropriation; providing an effective date.

SB 41-C was determined by the President to be within the purview of the call of the Governor, was read the first time by title and referred to the Committees on Rules, Calendar, Privileged Business and Ethics and Ways and Means.

By Senator de la Parte—

SB 42-C—A bill to be entitled An act relating to the cigarette tax; amending section 210.025, Florida Statutes, to provide for an increase of four cents per pack in the additional state cigarette tax; amending Section 210.02 (8), Florida Statutes, to provide for a retailer's floor tax; providing an appropriation; providing an effective date.

SB 42-C was determined by the President to be within the purview of the call of the Governor, was read the first time by title and referred to the Committees on Rules, Calendar, Privileged Business and Ethics and Ways and Means.

By Senator Poston—

SB 43-C—A bill to be entitled An act relating to transportation; providing for establishment of regional transportation authorities; providing purposes and powers of the authorities for public transportation systems in and throughout Florida; providing exemptions to the authority from regulation and taxation; providing special district ad valorem taxing; providing for issuance of bonds, pledging of assets and revenue; defining the transportation area and providing for operation and expansion; providing an effective date.

SB 43-C was determined by the President to be within the purview of the call of the Governor, was read the first time by title and referred to the Committees on Rules, Calendar, Privileged Business and Ethics, Transportation and Governmental Efficiency.

By Senators Poston, Lane and Arnold—

SB 44-C—A bill to be entitled An act relating to outdoor advertising; amending section 479.01, Florida Statutes, relating to definitions; amending section 479.02, Florida Statutes, pertaining to enforcement of provisions by the department; creating section 479.025, Florida Statutes, providing for execution of agreement; amending section 479.03, Florida Statutes, relating to territory to which act applies; amending section 479.11(1), Florida Statutes, prohibiting the erection of outdoor signs in certain areas; amending section 479.16(12), Florida Statutes, excepting certain advertisements; creating sections 479.24, 479.24, and 479.25, Florida Statutes, providing for removal of certain signs and compensation for such removal; providing for owner's responsibility, including removal costs; providing an effective date.

SB 44-C was determined by the President to be within the purview of the call of the Governor, was read the first time by title and referred to the Committees on Rules, Calendar, Privileged Business and Ethics, Transportation and Ways and Means.

Senate Bills 45-C, 46-C, 47-C were delivered to the Committee on Rules, Calendar, Privileged Business and Ethics for consideration and advice as to whether same are within the purview of the call of the Governor.

On June 21, Senate Concurrent Resolutions 48-C and 49-C were adopted, SB 50-C was referred to local calendar and SB 51-C was delivered to the Committee on Rules, Calendar, Privileged Business and Ethics.

On motion by Senator Weissenborn, SCR 52-C was admitted for introduction and consideration by the required two-thirds vote of the membership. The vote was: Yeas—44 Nays—None

Mr. President	Deeb	Johnson (29th)	Poston
Arnold	de la Parte	Johnson (34th)	Reuter
Barron	Ducker	Karl	Saunders
Barrow	Fincher	Knopke	Sayler
Beaufort	Gong	Lane	Scarborough
Bishop	Graham	Lewis (33rd)	Stolzenburg
Boyd	Gunter	Lewis (43rd)	Trask
Brantley	Haverfield	McClain	Ware
Broxson	Henderson	Myers	Weissenborn
Childers	Hollahan	Ott	Williams
Daniel	Horne	Plante	Wilson

By Senators Weissenborn, Thomas, Arnold, Barron, Barrow, Beaufort, Bell, Bishop, Boyd, Brantley, Broxson, Childers, Daniel, Deeb, de la Parte, Ducker, Fincher, Gong, Graham, Gunter, Haverfield, Henderson, Hollahan, Horne, Johnson (29th), Johnson (34th), Karl, Knopke, Lane, Lewis (33rd), Lewis (43rd), McClain, Myers, Ott, Plante, Pope, Poston, Reuter, Saunders, Sayler, Scarborough, Stolzenburg, Trask, Ware, Williams and Wilson—

SCR 52-C—A concurrent resolution in Memoriam Jerry Williams Carter

WHEREAS, the words of the water lily: "White souls fall not, Oh, my Poet, They rise to the highest place," are no more aptly descriptive of any man than of the late Jerry W. Carter, who first appeared upon the stage of life occupying a lowly station and who departed it enshrined in the hearts of all who knew him—family, friends and acquaintances—elevated to an enviable recognition in high political circles, and mourned by multitudes at all levels of society, and

WHEREAS, through the exercise of his diversified talents he has left to contemporaries and posterity an unusual example of devotion to family, faithfulness to public duty, sagacity and earnest effort in affairs of state and in the true science of government which we would permanently record, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That the Senate and the House of Representatives in Session assembled do hereby record in testimonial of high esteem, unlimited gratitude and profound sorrow—

IN MEMORIAM

JERRY WILLIAMS CARTER

—who was born on August 11, 1887, in a rural section of Barbour County, Alabama. Self-educated, in the year 1908, he made an inauspicious entry into the State of Florida visibly bearing little other worldly goods than a suitcase and samples as an agent of the Singer Sewing Machine Company. However, in the year 1907 he had made what was possibly the greatest acquisition of his life. He was married to Miss Mary Frances Hoiifield. This beautiful companion and their sons, four of whom survive him, were the pride of his life and ever the objects of his unswerving devotion.

His political sagacity had its first evidence in successfully campaigning for Congressman Emmett Wilson from West Florida's then Third District. Next he had the astuteness to head in west Florida the successful campaign for Governor of the then little known candidate from Polk County, Park Trammell. With the election of this candidate the political prowess of Jerry Carter was established.

Next he was selected as state campaign manager by Baptist Minister Sidney J. Catts for the colorful and stormy gubernatorial campaign which culminated in success and installed him as Florida's "wartime Governor", 1917-1921.

From Governor Catts Jerry received an appointment as Hotel Commissioner, which was the beginning of his long tenure in

public office, terminated only by retirement on January 4, 1971. Although he lost in two races for the United States Senate and once for Governor of Florida, the seat he took on the Florida Railroad Commission (now the Public Service Commission) in 1924 remained his for thirty-seven years, the longest sitting member of the Commission. This tenure was a phenomenal feat in the face of the fact that Jerry Carter avowed his greatest public achievement to be that he had saved the people of Florida millions of dollars by forcing private power and telephone company rate reductions.

The political slogans coined by Jerry during his long career are legendary and in 1955 he was given the well earned title of "Mr. Democrat" by the Florida Young Democrats. The Democratic Convention in Chicago in 1968 was the first such convention that he failed to attend over a period of forty-two years. He served as Democratic National Committeeman from Florida on two occasions. His long career was ever marked by warmth and color and he counted his political friends and admirers by the thousands.

Aside from his ardent political activities and earnest attention to affairs of the people as a public servant he was possessed of a talent which, had it been pursued beyond the point of his own amusement and the amusement and delectation of his friends, might well have netted him renown. His innumerable drawings, exquisitely executed, were most remarkable.

Jerry was a member of the First Baptist Church, Jackson Lodge 1 F&AM, Eastern Star, Masons, Shrine, Elks and Moose.

So, while the headlines read "demised, age 83", this great, cheerful, warm and colorful figure, this friend of the people, with the silver donkey ever on his lapel, lives on in the consciousness and hearts of his family, friends and countrymen as an inspiration and a legend that knows no death.

BE IT FURTHER RESOLVED that a copy of this Concurrent Resolution duly attested by the President and the Secretary of the Senate and the Speaker and the Clerk of the House of Representatives be forwarded to Mrs. Jerry W. Carter, Jerry W. Carter, Jr., William H. Carter, Robert G. Carter and David H. Carter, widow and sons, respectively, together with the condolences of the members of the Florida Legislature.

Was read the first time in full. On motion by Senator Weissenborn, by two-thirds vote, SCR 52-C was read the second time by title, adopted, and certified to the House. The vote was: Yeas—46 Nays—None

Mr. President	Deeb	Johnson (34th)	Reuter
Arnold	de la Parte	Karl	Saunders
Barron	Ducker	Knopke	Sayler
Barrow	Fincher	Lane	Scarborough
Beaufort	Gong	Lewis (33rd)	Stolzenburg
Bell	Graham	Lewis (43rd)	Trask
Bishop	Gunter	McClain	Ware
Boyd	Haverfield	Myers	Weissenborn
Brantley	Henderson	Ott	Williams
Broxson	Hollahan	Plante	Wilson
Childers	Horne	Pope	
Daniel	Johnson (29th)	Poston	

On motion by Senator Poston, the following remarks were ordered spread upon the Journal:

Senator Weissenborn: I had the pleasure of knowing Jerry Carter since I became interested in politics too many years ago. I attended the 1960 Democratic convention and he was there as a national committeeman and he dispelled security arrangements. Everybody there from Florida got in because he got them in.

As you heard from the resolution, he had a number of children. I think the thing I really remember about him—one of his sons was an attorney in Miami, and I had the privilege of also knowing him. This son died and left, I think, seven children—some large number. Jerry brought the widow to Tallahassee and personally undertook the rearing of those children. This took a lot of doing and this is the kind of a man he was.

People got upset when he made the statement one time that he was a cheap politician, the only kind people could afford. But if you think about it, you know he didn't intend it as it came out. He simply meant that he always tried to be the people's

politician and he really did try to represent the people when he came to the situations involving rates being charged by the utilities. I'll always remember him with the donkeys all over him and he was "Mr. Democrat." I am very sorry he died and I think that he truly rendered a great service to the State of Florida.

Senator Pope: The passing of Jerry Carter marked the demise of an outstanding citizen of the state and a man who very definitely was a character in public life that spanned over many years. It might be said he was to the Democratic party of the State of Florida what William Jennings Bryant was to the Democratic party on the national basis. His career in public life as the resolution tells you spanned a period from Governor Trammell, but particularly began with a very colorful Governor of the State, Sidney J. Catts, and it spanned that period until his death. He, in Florida, went through the changes that we underwent in our thinking and philosophy. He moved from the days of the Ku Klux Klan. He supported Governor Catts who got elected because he was going to keep the Pope from coming over and running the State of Florida. He went on into the period in which integration took place in this great state. But there was one thing that was typical and that was the Democratic party could never do anything that could put him out of it or cause him to renounce that party. He was what Senator Edwards would have called a "yellow dog" Democrat and he believed in the Democratic party. He believed that it was a party for the common man and he always worked very diligently for that party and even though some of his philosophies might have been inundated to a certain extent the philosophies of the party came first and he was as far as I know always a very faithful Democrat. He was one of the great leaders in the Townsend Club movement, not only in this state but nationally. He sought the offices of Governor and United States Senator, offices to which he was never successful, but the rather interesting part of it is that on each occasion in which he ran for those offices, he was holding an office of some type. During that career, from Sidney Catts to his retirement, he was in public office in the State of Florida over that great period of more than 30 years. I think that with his passing a very colorful person has been removed from the political scene of Florida, that it marks a new period, that it is a different era and a different effort but he served as a memory to many of us as to the kind of public life and the kind of sacrifice that went on by so many of our public servants in his day and time.

On motion by Senator Trask, SCR 53-C was admitted for introduction and consideration by the required two-thirds vote of the membership of the Senate. The vote was:

Yeas—32

Arnold	Daniel	Knopke	Poston
Barrow	Graham	Lewis (33rd)	Reuter
Beaufort	Gunter	Lewis (43rd)	Saunders
Bell	Haverfield	McClain	Sayler
Boyd	Henderson	Myers	Trask
Brantley	Horne	Ott	Ware
Broxson	Johnson (34th)	Plante	Williams
Childers	Karl	Pope	Wilson

Nays—2

Ducker Lane

By Senator Trask—

SCR 53-C—A concurrent resolution designating that portion of State Road 540 in Polk County, Florida, between U. S. 17 and U. S. 27, as Cypress Gardens Boulevard.

Was read the first time in full. On motion by Senator Trask, the rules were waived and SCR 53-C was placed on the Calendar.

On motion by Senator Sayler, SCR 54-C was admitted for introduction and consideration by the required two-thirds vote of the membership of the Senate. The vote was: Yeas—36 Nays—None

Arnold	Daniel	Knopke	Reuter
Barrow	Deeb	Lane	Sayler
Beaufort	Ducker	Lewis (33rd)	Scarborough
Bell	Graham	Lewis (43rd)	Stolzenburg
Bishop	Gunter	McClain	Trask
Boyd	Haverfield	Ott	Ware
Brantley	Horne	Plante	Weber
Childers	Johnson (29th)	Pope	Williams
	Karl	Poston	Wilson

By Senators Deeb, Ware, Sayler and Wilson—

SCR 54-C—A concurrent resolution requesting that appropriate governmental action be taken to hold in public trust the ninety-nine and one half acres of the Bay Pines Veterans Administration Hospital complex in Pinellas County declared to be surplus acreage by the federal government and to insure its maintenance as a park in as natural a condition as possible accessible to the people of Florida.

Was read the first time in full. On motion by Senator Sayler, the rules were waived and SCR 54-C was placed on the Calendar.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Jerry Thomas
President of the Senate

June 21, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote of the membership and adopted—

SCR 49-C

SCR 48-C

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

The bills, contained in the above message, were ordered enrolled.

The Honorable Jerry Thomas
President of the Senate

June 21, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Ways and Means—

SB 12-C—A bill to be entitled An act relating to the excise tax on documents; adding subsection (3) to §201.02, Florida Statutes, as amended by chapter 70-304, Laws of Florida; requiring the recording of evidence of ownership in cooperative apartment associations; providing that no documentary stamp tax shall be payable upon tenant-stockholder documents executed prior to October 1, 1970; providing an effective date.

Amendment 1—

On page 2, lines 13 thru 16, strike "However, no such tax shall be collected on a tenant-stockholder document as described in subsection (2) if such document was executed prior to October 1, 1970."

Amendment 2—

On page 1, in title, line 10, strike "providing that no documentary stamp tax shall be payable upon tenant-stockholder documents executed prior to October 1, 1970;"

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

On motions by Senator Trask, the Senate concurred in the House amendments to SB 12-C.

SB 12-C passed as amended, was ordered engrossed and the action of the Senate was certified to the House. The vote was: Yeas—36 Nays—None

Mr. President	de la Parte	Johnson (34th)	Reuter
Arnold	Ducker	Karl	Saunders
Beaufort	Gong	Lane	Sayler
Bishop	Graham	Lewis (33rd)	Scarborough
Boyd	Gunter	Lewis (43rd)	Trask
Brantley	Haverfield	McClain	Ware
Broxson	Henderson	Myers	Weissenborn
Childers	Hollahan	Plante	Williams
Daniel	Johnson (29th)	Poston	Wilson

By unanimous consent Senator Barrow was recorded as voting yea.

The Honorable Jerry Thomas
President of the Senate

June 21, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Ways and Means—

SB 3-C—A bill to be entitled An act authorizing expenditures for fixed capital outlay projects at junior colleges, area vocational-technical centers, and institutions under the board of regents; providing an effective date.

Amendment 1—

On page 1, lines 24 and 25, strike "Thirteen million three hundred thousand dollars (\$13,300,000)" and insert the following: Fifteen million eight hundred forty thousand dollars (\$15,840,000)

Amendment 2—

On page 2, lines 17 and 18, strike "Three million one hundred fifty thousand dollars (\$3,150,000)" and insert the following: Two million seven hundred eighty thousand dollars (\$2,780,000)

Amendment 3—

On page 3, lines 11 and 12, strike "Eighteen million five hundred fifty thousand dollars (\$18,550,000)" and insert the following: Sixteen million three hundred eighty thousand dollars (\$16,380,000)

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

On motions by Senator Williams, the Senate refused to concur in the House amendments to SB 3-C, and the House was requested to recede therefrom. The action of the Senate was certified to the House.

By permission the following reports were received:

REPORTS OF COMMITTEES

The Committee on Rules, Calendar, Privileged Business and Ethics recommends:

1. That the following bills fall within the purview of the call of the Governor and should be considered during this special session:

HB 21-C	SB 41-C	SB 43-C	HB 11-C
SB 36-C	SB 42-C	SB 44-C	

2. That the following bills do not fall within the purview of the call of the Governor and should not be considered during this special session:

SB 37-C SB 39-C SB 45-C HB 46-C
SB 38-C SB 40-C

Respectfully submitted,
George L. Hollahan, Jr.
Chairman

The Committee on Rules, Calendar, Privileged Business and Ethics recommends the following pass:

HB 21-C with 1 amendment SB 36-C SB 41-C SB 42-C

The bills were referred to the Committee on Ways and Means under the original reference.

The Committee on Rules, Calendar, Privileged Business and Ethics recommends the following pass: SB 43-C, SB 44-C.

The bills were referred to the Committee on Transportation under the original reference.

ENGROSSING REPORT

Your Engrossing Clerk to whom was referred SB 9-C with 2 amendments reports that the Senate amendments have been incorporated and the bill is returned herewith.

ELMER O. FRIDAY
Secretary of the Senate

The bill was certified to the House.

The Honorable Jerry Thomas
President of the Senate

June 18, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote of the membership and adopted—

By Representative Yancey and others—

HCR 56-C—A concurrent resolution recognizing the achievements of the Moccasins of Florida Southern College.

WHEREAS, the Moccasins of Florida Southern College, Lakeland, Florida, have placed the State of Florida on the national collegiate baseball map and earned for themselves a place in the state's sports annals by winning the National Collegiate Athletic Association College Division Baseball Championship for 1971, and

WHEREAS, the human interest element involves an aggregation of individuals as diverse as they are dedicated to team play, men as personalities as well as athletes, and a team which has proven itself time and time again, and

WHEREAS, the team effort applies not only to the baseball team itself but the faculty, administration and entire student body of Florida Southern College, and

WHEREAS, the Moccasins of Florida Southern College, playing with a team composed predominately of Florida residents, have contributed mightily to the image of the State of Florida, a development from which all Floridians rightfully derive pride and pleasure, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida, the Senate Concurring:

(1) The legislature congratulates the Moccasins of Florida Southern College on their outstanding accomplishments in winning the National Collegiate Athletic Association College Division Baseball Championship for 1971.

(2) The legislature commends the administration of Florida Southern College, and in particular Dr. Charles T. Thrift, Jr., President, and Mr. Thomas Greene, Director of Athletics, for their support of the program which resulted in the development of this splendid team.

(3) The legislature praises the coaches, Mr. Hal L. Smeltzly and Mr. Charles Anderson, for a job exceedingly well done in discovering and promoting the individual talents and then melding these talents to produce a team able to achieve the national heights.

(4) The legislature recognizes the outstanding athletic achievements of Kevin Bryant, catcher, and Greg Pryor, second baseman, in their selection as the most valuable players of the 1971 tournament as well as the other twenty members of the team without whose contributions the championship could not have been achieved.

(5) The legislature requests the Secretary of State to supply, as a personal memento of this occasion, a copy of this resolution, signed by the appropriate officials, to each of the persons named in the resolution and all members of the team including the student manager.

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

HCR 56-C, contained in the above message, was admitted for introduction by the constitutional two-thirds vote of the membership. The vote was: Yeas—44 Nays—None

Mr. President	de la Parte	Johnson (34th)	Poston
Arnold	Ducker	Karl	Reuter
Barrow	Fincher	Knopke	Saunders
Beaufort	Gong	Lane	Saylor
Bell	Graham	Lewis (33rd)	Scarborough
Bishop	Gunter	Lewis (43rd)	Stolzenburg
Boyd	Haverfield	McClain	Trask
Brantley	Henderson	Myers	Ware
Broxson	Hollahan	Ott	Weissenborn
Daniel	Horne	Plante	Williams
Deeb	Johnson (29th)	Pope	Wilson

By unanimous consent Senator Childers was recorded as voting yea.

HCR 56-C was read the first time in full. On motion by Senator Trask, the rules were waived and HCR 56-C was read the second time by title, adopted and certified to the House. The vote was: Yeas—44 Nays—None

Mr. President	de la Parte	Johnson (34th)	Poston
Arnold	Ducker	Karl	Reuter
Barrow	Fincher	Knopke	Saunders
Beaufort	Gong	Lane	Saylor
Bell	Graham	Lewis (33rd)	Scarborough
Bishop	Gunter	Lewis (43rd)	Stolzenburg
Boyd	Haverfield	McClain	Trask
Brantley	Henderson	Myers	Ware
Broxson	Hollahan	Ott	Weissenborn
Daniel	Horne	Plante	Williams
Deeb	Johnson (29th)	Pope	Wilson

By unanimous consent Senator Childers was recorded as voting yea.

The Honorable Jerry Thomas
President of the Senate

June 21, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has adopted, with amendment—

By the Committee on Ways and Means—

SCR 4-C—A concurrent resolution approving the types, amounts and use of registration fees, tuition fees, and course fees to be charged and collected from students enrolled in the institutions of higher learning under the board of regents during the 1971-72 school year.

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

Section 1. The 1971 legislature, in special session, hereby approves the following registration and tuition fees to be charged each student in the state university system for the school year 1971-72:

For students enrolled in other than the MD program in the University of Florida and University of South Florida Colleges of Medicine and in the graduate engineering education system.

Full-Time Students Per Quarter

	Undergraduate	Graduate
Registration Fee:		
Matriculation fee	\$ 112.50	\$ 162.50
Building fee	15.50	15.50
Student financial aid fee	4.50	4.50
Capital improvements fee	20.00	20.00
Activity and service fee	32.50	32.50
TOTAL REGISTRATION FEE	\$ 185.00	\$ 235.00

	Undergraduate	Graduate
Out-of-State Tuition:		
Tuition for non-Florida students in addition to the registration fee and activity and service fee	\$ 325.00	<u>\$ 325.00</u>
Minimum hours considered full-time	9	9
Part-Time Students Per Quarter On Campus:		
Registration fee per student credit hour	\$ 16.00	<u>\$ 20.00</u>
Tuition per student credit hour for non-Florida students in addition to the registration fee	\$ 27.00	<u>\$ 27.00</u>
Distribution of Part-Time Registration Fee:		
Matriculation fee	87%	87%
Building fee	13%	13%
For Students Enrolled in Continuing Education Courses:		
Registration fee per student credit hour	\$ 19.00	<u>\$ 23.00</u>
Tuition per student credit hour for non-Florida students in addition to the registration fee	\$ 27.00	<u>\$ 27.00</u>
For students enrolled in the MD program in the University of Florida and University of South Florida Colleges of Medicine		

A Florida student enrolled in the MD program of the College of Medicine will pay a fee of \$900.00 per year in installments of \$300.00 each to be paid in September, January, and March. A non-Florida student enrolled in the MD program of the college of medicine will pay a fee of \$2,100.00 a year in installments of \$700.00 each to be paid in September, January, and March.

For students enrolled in the University of Florida graduate engineering education system (genesys)

Students enrolled in the graduate engineering education system will pay a fee of \$60 per student credit hour, with a maximum fee of \$375.00.

Section 2. BE IT FURTHER RESOLVED, that the building fee, student financial aid fee, and capital improvements fee shall be remitted to the appropriate fund in the office of the board of regents to be allocated among the several universities by the board of regents.

Section 3. BE IT FURTHER RESOLVED, that these fees may be adjusted by the board of regents for experimental programs of differential fees to even enrollments over four (4) quarters.

Section 4. BE IT FURTHER RESOLVED, that all or any part of these fees may be waived by the board of regents when deemed appropriate provided that provisions for such waiver are included in the board's operating manual which has been approved by the state board of education and filed with the department of state; provided further that out-of-state tuition fee waivers for the 1971-72 school year shall not exceed three and one half (3½) times twenty percent (20%) of the non-Florida resident fall enrollment of the prior school year.

Section 5. Be it further resolved, that each institution in the State University System may, subject to approval of the Board of Regents, assess a late registration fee, not to exceed \$25.00, against students who do not begin their registration during the time provided under the academic calendar adopted by the institution in which he is in attendance.

Section 6. No portion of the student activities and service fees approved herein shall be used for campus speakers who advocate, while on campus, the following;

- (1) Violent overthrow of the government of the United States, the State of Florida, or any political subdivision thereof;
- (2) Willful destruction or seizure of the institution's buildings or other property;
- (3) Disruption or impairment, by force, of the institution's regularly scheduled classes or other educational functions;
- (4) Physical harm, coercion, intimidation or other invasion of lawful rights of the institution's officials, faculty members or students; or
- (5) Other campus disorder of violent nature.

Which amendment reads as follows:

On page 1, strike all after the resolving clause and insert the following:

Section 1. The legislature hereby approves the following registration and tuition fees to be charged each student in the state university system for the school year 1971-72:

For students enrolled in other than the MD and DD programs in the university of Florida college of medicine and college of dentistry; the MD program in the university of south Florida college of medicine; in the graduate engineering education system; and in the continuing education programs:

Full Time Student Per Quarter	Undergraduate	Graduate
Registration fee:		
Matriculation fee	\$ 112.50	\$ 162.50
Building fee	15.50	15.50
Student Financial fee	4.50	4.50
Capital Improvement fee	\$ 20.00	\$ 20.00
Student Financial Aid		
Trust Fund fee	3.00	3.00
Activity and Service fee	34.50	34.50
	<u>\$ 190.00</u>	<u>\$ 240.00</u>

Out-of-State Tuition

Tuition for non-Florida students in addition to the registration fee and activity and service fee	\$ 350.00	\$ 350.00
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Minimum hours considered full time	<u>9</u>	<u>9</u>
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Part Time Students Per Quarter	Undergraduate	Graduate
Registration fee per student credit hour:	\$ 16.00	\$ 20.00
Tuition per student credit hour for non-Florida students in addition to the registration fee	\$ 27.00	\$ 27.00

Distribution of part-time registration fee:		
Matriculation fee	87%	
Building fee	13%	

For Students Enrolled in Continuing Education Courses	Undergraduate	Graduate
Registration fee per student credit hour	\$ 19.00	\$ 23.00
Tuition per student credit hour for non-Florida students in addition to the registration fee	\$ 27.00	\$ 27.00

For students enrolled in the MD programs in the university of Florida college of medicine, the DD program in the university of Florida college of dentistry and in the MD program in the university of south Florida college of medicine:

A Florida student enrolled in MD program in the colleges of medicine or DD program in the college of dentistry will pay a fee of \$1,050 per year in installments of \$350.00 each to be paid in September, January, and March. A non-Florida student

enrolled in the MD program in the colleges of medicine or DD program in the college of dentistry shall pay a fee of \$2,250 a year in installments of \$750.00 each to be paid September, January and March.

For students enrolled in the university of Florida graduate engineering education system (GENESYS)

Students enrolled in the graduate engineering education system will pay a fee of \$60.00 per student credit hour, with a maximum fee of \$375.00.

Section 2. BE IT FURTHER RESOLVED, that the building fee, student financial aid fee, and capital improvements fee shall be remitted to the appropriate fund in the office of the board of regents to be allocated among the several universities by the board of regents.

Section 3. BE IT FURTHER RESOLVED, that the student financial aid trust fund fee shall be remitted to the appropriate fund of the board of education to be administered by the department of education.

Section 4. BE IT FURTHER RESOLVED, that these fees may be adjusted by the board of regents for experimental programs of differential fees to even enrollments over four quarters.

Section 5. BE IT FURTHER RESOLVED, that all or any part of these fees may be waived by the board of regents when deemed appropriate provided that provisions for such waiver are included in the board's operating manual which has been approved by the state board of education and filed with the secretary of state; provided, however, in no case may the board of regents waive non-resident student registration fees or tuition for more than three and one half (3½) times twenty percent (20%) of the non-resident under graduate enrollment and forty percent (40%) of the non-resident graduate enrollment of the prior fall non-resident enrollment in the state university system.

Section 6. BE IT FURTHER RESOLVED, that each institution in the state university system may, subject to approval of the board of regents assess a late registration fee, not to exceed twenty-five dollars (\$25.00) against students who do not begin their registration during the time provided under the academic calendar adopted by the institution in which he is in attendance.

Section 7. BE IT FURTHER RESOLVED, no portion of the student activities and service fees approved herein shall be used to compensate campus speakers who advocate, while on campus, the following:

- (1) Violent overthrow of the government of the United States, the State of Florida, or any political subdivision thereof;
- (2) Willful destruction or seizure of the institution's buildings or other property;
- (3) Disruption or impairment, by force, of the institution's regularly scheduled classes or other educational functions;
- (4) Physical harm, coercion, intimidation or other invasion of lawful rights of the institution's officials, faculty members or students; or
- (5) Other campus disorder of violent nature.

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

On motion by Senator Saunders, the Senate concurred in the House amendment to SCR 4-C.

SCR 4-C passed as further amended, was ordered engrossed and the action of the Senate was certified to the House. The vote was:

Yeas—39

Mr. President	Bell	Childers	Ducker
Barron	Bishop	Daniel	Fincher
Barrow	Boyd	Deeb	Gong
Beaufort	Broxson	de la Parte	Graham

Gunter	Knopke	Ott	Stolzenburg
Haverfield	Lane	Pope	Trask
Henderson	Lewis (33rd)	Poston	Weissenborn
Horne	Lewis (43rd)	Saunders	Williams
Johnson (29th)	McClain	Saylor	Wilson
Johnson (34th)	Myers	Scarborough	

Nays—2

Arnold	Plante
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By unanimous consent, Senators Reuter, Ware and Hollahan were recorded as voting nay; Senators Haverfield and Childers changed their votes from yea to nay.

Senator Scarborough moved that a bill temporarily numbered R-52-C relating to compulsory school attendance be admitted for introduction and consideration notwithstanding the fact same did not fall within the purview of the call of the Governor. The motion failed to receive the required two-thirds affirmative vote of the membership. The vote was:

Yeas—22

Arnold	Brantley	Karl	Scarborough
Barron	Daniel	Knopke	Stolzenburg
Barrow	Deeb	Lane	Trask
Beaufort	Ducker	McClain	Ware
Bell	Horne	Ott	
Bishop	Johnson (34th)	Saylor	

Nays—14

Broxson	Hollahan	Plante	Weissenborn
Childers	Johnson (29th)	Poston	Wilson
Fincher	Lewis (33rd)	Reuter	
Graham	Myers	Saunders	

By unanimous consent, Senator Pope was recorded as voting yea; Senator Williams as voting nay.

Senator Fincher moved that the Senate reconsider the vote by which the Senate concurred in House amendments to SB 12-C and the Senate refused to reconsider.

SECOND READING

HB 28-C—A bill to be entitled An act relating to transportation; providing for establishment of regional transportation authorities; providing purposes and powers of the authorities for public transportation systems in and throughout Florida; providing exemptions to the authority from regulation and taxation; providing special district ad valorem taxing; providing for issuance of bonds, pledging of assets and revenue; defining the transportation area and providing for operation and expansion; providing an effective date.

Was read the second time by title.

The Committee on Transportation offered the following amendment which was adopted on motion by Senator Poston:

Amendment 1—On page 3, line 1, section 1, strike all language following the enacting clause and insert the following:

Section 1. Short title.—This act shall be known and may be cited as the "regional transportation authority law."

Section 2. Definitions.—As used in this act and unless the context clearly indicates otherwise:

(1) "Authority" means a body politic and corporate, created pursuant to this act.

(2) "Membership" means the governing body of the authority and "member" means one of the individuals constituting such governing body.

(3) "Regional transportation area" means that area the boundaries of which are identical to the boundaries of the political subdivisions or other legal entities which constitute the authority.

(4) "Municipality" means any city within the regional transportation area with a population of over 50,000.

(5) "County" means any county within the regional transportation area.

(6) "Public transportation" means transportation of passengers for hire by means, without limitation, of a street railway, elevated railway or guideway, subway, motor vehicle, motor bus and any bus or other means of conveyance operating as a common carrier within the regional transportation area, and including charter service therein.

(7) "Public transportation system" means, without limitation, a combination of real and personal property, structures, improvements, buildings, equipment, plants, vehicle parking or other facilities, and rights of way, or any combination thereof, used or useful for the purposes of public transportation.

(8) "Operator" means any person engaged in or intending to engage in the business of providing public transportation, but does not include a person engaged primarily in the transportation of children to or from school or a person furnishing transportation solely for his or its employees or customers.

(9) "Transportation facility" or "transportation facilities" means the property or property rights, both real and personal, of a type used for the establishment of public transportation systems which have heretofore or may hereafter be established by public bodies for the transportation of people and property from place to place.

Section 3. Regional transportation authorities.—

(1) Any two or more contiguous counties, municipalities, other political subdivisions, or combinations thereof in the state of Florida are authorized and empowered to activate and implement a regional transportation authority, hereinafter referred to as "authority," to be constituted, composed and operated as delineated in this act; provided, however, that no county, municipality or other political subdivision may be a member in more than one authority.

(2) Such activation shall be by vote of the governing bodies of the political entities participating in such activation. Upon decision by such governing bodies to activate an authority, each shall appoint its respective member to the authority. Such appointees shall meet only for the purpose of formalizing notification to the governor that such action has been taken, and the governor shall within twenty (20) days appoint two (2) members to the authority who are not required to be residents of any county, municipality or political subdivision which is a member of the authority. Within forty-five (45) days from the initial meeting, the first meeting of the authority shall be held, at which time the authority shall be formally constituted.

(3) Subsequent to the activation of the authority, contiguous counties, municipalities, or other political subdivisions not participating initially may become members of the authority with the same benefits as the initial members upon approval by a majority vote of the authority.

(4) The governing body of the authority shall consist of at least one member from each member county, at least one member from each member municipality and two members appointed by the governor, selected and serving as provided herein. In no event shall the governing body be composed of less than five (5) members including the two members appointed by the governor. Initially, two members shall serve for three years; two members shall serve for two years; all others shall serve for one year. The members appointed by the governor shall serve at his pleasure. Thereafter, the term of each member shall be for three years. Each member shall hold office until his successor has been appointed and qualified. A vacancy occurring during a term shall be filled only for the balance of the unexpired term. The first members shall be selected as provided above. An appointment to fill a vacancy shall be made within 60 days after the occurrence of the vacancy or before expiration of the term, whichever is applicable. If no appointment is made within the prescribed time by the appointing governing body, the authority, by a majority vote, shall appoint an eligible person to the authority with like effect as if the appointment were made by the authorized governing body; provided, however, that if the authority does not appoint an eligible person within thirty (30) days, the appointment shall be made by the governor. Any member of the authority shall be eligible for reappointment.

(5) Each appointed member of the authority shall be a person who is a qualified elector of the political subdivision making the appointment with an outstanding reputation for civic pride, interest, integrity, responsibility and business ability, except the residence requirements do not apply to those members appointed by the governor. No person who is an officer or employee of any county or such political subdivision except elected officials, shall be appointed a member of the authority. Further, no member shall have any private financial interest, directly or indirectly, in any contract, work or business of the authority or any public transportation system subject to regulation by the authority; or, be in the employ of or hold any stock, bond, investment or other financial interest or private business relationship to any operator of a public transportation system in the region.

(6) The authority shall elect one of its members as chairman and one as a vice-chairman to serve for one year in that capacity or until their successors are elected. A majority of the members shall constitute a quorum. No vacancy in the membership shall impair the right of the authority to exercise all of its rights and perform all of its duties. Upon the effective date of his appointment, or as soon thereafter as practicable, each member shall enter upon his duties.

(7) A member of the authority may be removed from office by the governor for misconduct, malfeasance, misfeasance or neglect of duty in office. Any vacancy so created shall be filled as provided above.

(8) The authority shall employ an executive director who shall be a person of recognized ability and experience to serve at the pleasure of the authority. The executive director may employ such employees as may be necessary for the proper administration of the duties and functions of the authority, and may determine the qualifications of such persons; provided, however, the authority shall fix compensation for employees. The authority may contract for the services of attorneys, engineers, consultants and agents for any purpose of the authority, including engineering, architectural design, management, feasibility, transportation planning and other studies concerning the acquisition, design of facilities, construction, extension, operation, maintenance, regulation, consolidation and financing of transportation systems in the area.

(9) Members of the authority shall be entitled to receive their traveling and other necessary expenses incurred in connection with the business of the authority, as provided in §112-061, Florida Statutes, but they shall receive no salaries or other compensation.

Section 4. Purposes and powers.—

(1) The authority created and established by the provisions of this act is granted the authority to purchase, own, operate or provide for the operation of transportation facilities to contract for transit services, to exercise power of eminent domain limited to right of way and contiguous facility acquisition, to conduct studies and to contract with other governmental agencies, private companies and individuals; provided, however, no public transportation system shall be purchased, owned or operated that would be in the continued business of competing with existing private charter transportation companies for charter business, nor shall a new system be implemented where an existing transportation system is operating without first purchasing said existing system through negotiation.

(2) The authority is granted the authority to exercise all powers necessary, appurtenant, convenient or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, complain and defend in all courts.

(b) To adopt, use and alter at will a corporate seal.

(c) To acquire, purchase, hold, lease as a lessee and use any franchise, property, real, personal or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority, and to sell, lease as lessor, transfer and dispose of any property or interest therein acquired by it.

(d) To fix, alter, charge and establish rates, fares and other charges for the services and facilities within the area, which rates, fees and charges shall be equitable and just.

(e) To acquire and operate, or provide for the operation of local transportation systems, public or private, within the area, the acquisition of such system to be by negotiation and agreement between the authority and the operator of the system to be acquired.

(f) To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

(g) To enter into management contracts with any person or persons for the management of a public transportation system owned or controlled by the authority for such period or periods of time, and under such compensation and other terms and conditions as shall be deemed advisable by the authority.

(h) Without limitation, to borrow money and issue evidence of indebtedness and to accept gifts or grants or loans of money or other property and to enter into contracts, leases or other transactions with any federal agency, the state, any agency of the state, or with any other public body of the state.

(i) To develop transportation plans, and to coordinate its planning and programs with those of appropriate municipal, county, and state agencies and other political subdivisions of the state. All transportation plans are subject to review and approval by the department of transportation.

(j) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by this act or any other law.

(k) To prescribe and promulgate necessary rules and regulations consistent with the provisions of this act.

Section 5. Exemption from regulation.—The public transportation systems and facilities operating in and under the authority of this law shall be exempt from any of the regulatory provisions of chapters 323 and 350, Florida Statutes.

Section 6. Exemption from taxation.—Notwithstanding of any other law to the contrary, the property, moneys, and other assets of any authority created hereunder and all of its revenues or other income shall be exempt from all taxation, licenses, fees or other charges of any kind imposed by the state or by the county or by any municipality, political subdivision, taxing district or other public agency or body of the state.

Section 7. Special region taxation.—

(a) Any regional transportation authority created hereunder shall be deemed a special tax district and shall be authorized to levy an ad valorem tax on the taxable real property in the areas affected by such authority with the approval of the county commission or equivalent governing body of such area at a rate sufficient to produce an amount that may be necessary for effectuating the purposes of this act provided such millage level is approved by a majority of the members of such authority, and by referendum, but not to exceed three (3) mills. The total tax levied per annum shall be apportioned among the member political subdivisions on the basis of the operating needs of that specific area. Property taxes determined and levied under this section shall be certified by the authority to the appropriate auditor, extended, assessed and collected in like manner as provided by general law for such political subdivisions. The proceeds under this section shall be remitted by the tax collector to the treasurer of the authority who shall credit them to the funds of the authority for use in effectuating the purposes of this act. At any time after making a tax levy under this section and certifying the same to the corresponding governing body represented by the membership on the authority, the authority may issue tax anticipation notes of indebtedness in anticipation of the collection of such taxes.

(b) No tax authorized by this act shall be levied unless the same shall be approved by a majority of the electors voting in an election to be held in the geographical area of the special tax district.

Section 8. Issuance of bonds.—Any transportation authority created hereunder may issue bonds to carry out the authorized powers or purposes of this act; provided, that in the creation of bonded indebtedness the procedure therefor shall be in conformity with the constitution and laws of the state.

Section 9. Expansion of area.—Upon a resolution adopted by the governing body of any adjoining county, municipality, or other political subdivision, the authority may, subject to the provisions of section 3(1), by a majority vote of its membership include such territory in its regional transportation area.

Section 10. It is declared to be the legislative intent that, if any subsection, sentence, clause or provision of this act is held invalid, the remainder of this act shall be affected.

Section 11. This act shall take effect October 1, 1971.

The Committee on Transportation offered the following amendment which was adopted on motion by Senator Poston:

Amendment 2—On page 3, line 18, section 3 strike (.) period and insert: created under this act.

The Committee on Transportation offered the following amendment which was adopted on motion by Senator Poston:

Amendment 3—On page 4, line 22, strike all of lines 22, 23 and 24 and insert the following: Each county, municipality or other political subdivision shall appoint one initial member for a three-year term. If more than one member is agreed upon for initial appointment, their initial terms shall be for two years. The members appointed by the

The Committee on Transportation offered the following amendment which was adopted on motion by Senator Poston:

Amendment 4—On page 13, lines 1-4, section 7(b) strike paragraph (b), lines 1, 2, 3 and 4 and insert the following: No tax authorized by this act shall be levied unless the same shall be approved by a majority of the electors of each county, municipality, or other political subdivision, voting in elections to be held within the geographical area of the special tax district. A tax shall be authorized only in such political subdivisions as are approved by electors from within the county, municipality, or other political subdivisions who are members of the regional authority.

On motion by Senator Sayler the following amendment was adopted:

Amendment 5—On page 7, line 4, section 3, strike "shall" and insert: may

Senators Sayler and Barrow offered the following amendment which was moved by Senator Sayler:

Amendment 6—On page 4, section 3, strike subsection (5) and insert: Each member of the authority shall be a member of a governing body which is a member of the authority.

Senator Lane presiding.

Senator Wilson moved the adoption of the following substitute amendment which failed:

Amendment 7—On page 4, strike subsection (5) and insert the following: (5) Each member of the authority subsequent to the initial appointment shall be elected as follows:

The question recurred on the adoption of amendment 6 which was adopted by the following vote:

Yeas—28

Mr. President	Daniel	Karl	Sayler
Arnold	Deeb	Knopke	Scarborough
Barron	Ducker	Lane	Trask
Barrow	Gunter	Lewis (33rd)	Ware
Bell	Haverfield	McClain	Weber
Boyd	Horne	Ott	Williams
Brantley	Johnson (29th)	Plante	Wilson

Nays—13

Bishop	Graham	Lewis (43rd)	Weissenborn
Broxson	Henderson	Myers	
Childers	Hollahan	Pope	
Gong	Johnson (34th)	Poston	

On motion by Senator Hollahan, the Senate recessed at 12:01 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:00 p.m. A quorum present—47:

Mr. President	Deeb	Johnson (34th)	Reuter
Arnold	de la Parte	Karl	Saunders
Barron	Ducker	Knopke	Sayler
Barrow	Fincher	Lane	Scarborough
Beaufort	Gong	Lewis (33rd)	Stolzenburg
Bell	Graham	Lewis (43rd)	Trask
Bishop	Gunter	McClain	Ware
Boyd	Haverfield	Myers	Weber
Brantley	Henderson	Ott	Weissenborn
Broxson	Hollahan	Plante	Williams
Childers	Horne	Pope	Wilson
Daniel	Johnson (29th)	Poston	

SECOND READING

The Senate resumed consideration of—

HB 28-C—A bill to be entitled An act relating to transportation; providing for establishment of regional transportation authorities; providing purposes and powers of the authorities for public transportation systems in and throughout Florida; providing exemptions to the authority from regulation and taxation; providing special district ad valorem taxing; providing for issuance of bonds, pledging of assets and revenue; defining the transportation area and providing for operation and expansion; providing an effective date.

Senators Ware, Hollahan, Graham and Boyd offered the following amendment which was adopted on motion by Senator Ware:

Amendment 8—On page 1, line 10, section 1 after the period insert the following: No person who serves as a member of any appointive board or authority, without salary, shall be in violation of Chapter 99.012(2) Florida Statutes, by reason of holding any such office.

Senators Graham and Sayler offered the following amendment which was adopted on motion by Senator Graham:

Amendment 9—On page 10, line 18, strike period (.) after "transportation" and insert: , and by the regional planning agency, if any, for consistency with programs of planning for the area and region.

Senator Lane moved that debate on all amendments to the bill be limited to three minutes per side, and the motion failed.

On motion by Senator Ware the following amendment was adopted:

Amendment 10—On page 2, line 3, section 1, strike "50,000." and insert: 20,000.

Senator Wilson moved that HB 28-C be referred to an appropriate committee, and the motion failed.

On motion by Senator Sayler the following amendment was adopted:

Amendment 11—On page 4, line 3, section 3 strike "are not required to" and insert: shall

On motion by Senator Karl the following amendment was adopted:

Amendment 12—On page 3, line 2, insert after the word "appoint" and before "two": , with the advice and consent of the Senate,

On motion by Senator Karl the following amendment was adopted:

Amendment 13—On page 4, line 1, between the words "shall" and "serve" insert: be appointed with the advice and consent of the Senate and

Senators Wilson and Plante offered the following amendment which was moved by Senator Wilson and failed:

Amendment 14—On page 13, line 17, add a new Section 10 as follows:

Section 10. Regional authorities created hereunder shall be assigned and transferred to the Department of Transportation by a type one transfer.

And renumber the present Section 10 and subsequent sections.

Senator Deeb moved the adoption of the following amendment which failed:

Amendment 15—On page 11, line 18, strike Section 7 and insert: Section 7. Financing regional transportation authority

Any regional transportation authority created under this act is authorized to require each county within the authority to remit to the authority up to one-half of the funds received from the second gas tax for the purpose of effectuating the purposes of this act.

On motion by Senator Sayler the following amendment was adopted:

Amendment 16—On page 11, line 9, strike all of Section 6.

Renumber remaining sections

Senators Ware, Hollahan, Graham and Boyd offered the following amendment which was adopted on motion by Senator Graham:

Amendment 17—On page 13, line 21, insert a new section 11.

Section 11. Section 99.012, 1970 Supplement to Florida Statutes, is amended by adding: no person who serves as a member of any appointive board or authority, without salary, shall be in violation of this section by reason of holding any such office.

Renumber remaining section

On motion by Senator Ware the following amendment was adopted:

Amendment 18—On page 1, line 14, in title after the semicolon (;) on line 14 insert the following: amending Section 99.012, 1970 Supplement to Florida Statutes;

On motion by Senator Plante the Senate reconsidered the vote by which amendment 14 failed of adoption. The question recurred and the amendment was adopted.

On motion by Senator Daniel the following amendment was adopted:

Amendment 19—On page 1, line 14, in title, following "expansion;" add: provide a type one transfer of authorities created to department of transportation;

On motion by Senator Poston, by two-thirds vote, HB 28-C as amended was read the third time by title, passed and certified to the House. The vote was:

Yeas—39

Mr. President	de la Parte	Johnson (34th)	Pope
Arnold	Ducker	Karl	Poston
Barrow	Fincher	Knopke	Sayler
Beaufort	Gong	Lane	Scarborough
Bell	Graham	Lewis (33rd)	Stolzenburg
Bishop	Gunter	Lewis (43rd)	Trask
Boyd	Haverfield	McClain	Ware
Brantley	Hollahan	Myers	Weber
Childers	Horne	Ott	Weissenborn
Daniel	Johnson (29th)	Plante	

Nays—5

Deeb	Saunders	Williams	Wilson
Henderson			

By unanimous consent Senators Barron and Reuter were recorded as voting yea.

HB 27-C—A bill to be entitled An act relating to outdoor advertising, amending section 479.01, Florida Statutes, relating to definitions; amending section 479.02, Florida Statutes, pertaining to enforcement of provisions by the department, providing procedures; adding section 479.025, F. S., providing for execution of agreement; adding section 479.026, F. S., providing for guarantee against loss of funds; amending section 479.03, F. S., relating to territory to which act applies; amending section 479.11(1), F. S., prohibiting the erection of outdoor signs in certain areas; creating section 479.111, F. S., permitting certain advertising signs; amending section 479.16(12), F. S., excepting certain advertisements; adding section 479.23, F. S., providing for removal of signs; adding section 479.24, F. S., providing for compensation for removal of signs; adding section 479.25, F. S., providing that the State of Florida shall not be held responsible for the cost of removal of all signs installed after the effective date of act; providing an effective date.

Was read the second time by title.

On motion by Senator Bishop, by two-thirds vote, debate on HB 27-C was limited to 10 minutes per side.

Senator Saunders moved the adoption of the following amendment which failed:

Amendment 1—On page 9, line 20, section 12 strike "1971" and insert: 1972

Senator Plante moved the adoption of the following amendment which failed:

Amendment 2—On pages 6 and 7, strike Section 4 and re-number all sections

The vote was:

Yeas—11

Bell	Johnson (29th)	Plante	Trask
Childers	Karl	Saunders	Weber
Deeb	Lewis (33rd)	Sayler	

Nays—24

Arnold	Fincher	Knopke	Poston
Barrow	Graham	Lane	Reuter
Beaufort	Gunter	Lewis (43rd)	Stolzenburg
Bishop	Haverfield	Myers	Ware
Brantley	Hollahan	Ott	Weissenborn
Ducker	Johnson (34th)	Pope	Williams

By unanimous consent Senator Scarborough was recorded as voting yea.

Senators Sayler and Saunders offered the following amendment which was moved by Senator Sayler and failed:

Amendment 3—On page 9, line 20, section 12 strike "July 1, 1971" and insert: December 31, 1971

Senator Poston moved that the rules be waived and HB 27-C be read the third time by title. The motion failed to receive the required two-thirds vote. The vote was:

Yeas—25

Arnold	Gunter	Lewis (43rd)	Scarborough
Beaufort	Haverfield	McClain	Stolzenburg
Childers	Hollahan	Myers	Ware
Ducker	Johnson (34th)	Ott	Weissenborn
Fincher	Karl	Pope	
Gong	Knopke	Poston	
Graham	Lane	Reuter	

Nays—15

Mr. President	Brantley	Lewis (33rd)	Trask
Barrow	Daniel	Plante	Weber
Bell	Deeb	Saunders	Williams
Bishop	Johnson (29th)	Sayler	

Senator Brantley moved that the rules be waived and SB 30-C be admitted for introduction and consideration. The motion failed to receive the required two-thirds vote of the membership. The vote was:

Yeas—21

Arnold	Daniel	Lane	Ware
Barrow	Deeb	McClain	Weber
Beaufort	Ducker	Ott	Wilson
Bell	Haverfield	Sayler	
Brantley	Henderson	Scarborough	
Childers	Johnson (34th)	Stolzenburg	

Nays—11

Broxson	Gunter	Pope	Saunders
Gong	Lewis (33rd)	Poston	Williams
Graham	Plante	Reuter	

LOCAL CALENDAR

On motions by Senator Sayler, by two-thirds vote, House Bills 59-C and 60-C were removed from the local calendar and referred to the Committee on Natural Resources and Conservation.

SB 50-C—A bill to be entitled An act relating to alcoholic beverage licenses; authorizing the issuance of a 4 COP Liquor license to the Egypt Temple Holding Corporation, Inc., in Hillsborough County, Florida, under authority of Chapter 561, Florida Statutes annotated; providing for certain limitations affecting transfer and service; providing an effective date.

Was read the second time by title. On motion by Senator Knopke, by two-thirds vote SB 50-C was read the third time by title, passed and certified to the House. The vote was:

Yeas—40

Arnold	Ducker	Knopke	Reuter
Barron	Fincher	Lane	Saunders
Barrow	Graham	Lewis (33rd)	Sayler
Beaufort	Haverfield	Lewis (43rd)	Scarborough
Bell	Henderson	McClain	Stolzenburg
Bishop	Hollahan	Myers	Trask
Boyd	Horne	Ott	Ware
Brantley	Johnson (29th)	Plante	Weber
Daniel	Johnson (34th)	Pope	Weissenborn
Deeb	Karl	Poston	Williams

Nays—4

Broxson	Childers	Gunter	Wilson
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HB 3-C—A bill to be entitled An act relating to Orange County, fire control districts; amending subsection (1) of section 2, chapter 67-1821, Laws of Florida, to change number of registered freeholders to number of registered voters required to sign petition; adding subsections (3) and (4) to section 2, chapter 67-1821, Laws of Florida, to provide for designation of alternative methods of assessment; amending section 10, chapter 67-1821, Laws of Florida, as amended by section 2, chapter 69-1380, Laws of Florida, to provide for an alternative method of assessment for the special benefit; amending sections 11, 15, and 18, chapter 67-1821, Laws of Florida, to reflect the alternative method of assessment; providing an effective date.

Was read the second time by title. On motion by Senator Gunter, by two-thirds vote HB 3-C was read the third time by title, passed and certified to the House. The vote was: Yeas—44 Nays—None

Arnold	Deeb	Karl	Reuter
Barron	Ducker	Knopke	Saunders
Barrow	Fincher	Lane	Sayler
Beaufort	Graham	Lewis (33rd)	Scarborough
Bell	Gunter	Lewis (43rd)	Stolzenburg
Bishop	Haverfield	McClain	Trask
Boyd	Henderson	Myers	Ware
Brantley	Hollahan	Ott	Weber
Broxson	Horne	Plante	Weissenborn
Childers	Johnson (29th)	Pope	Williams
Daniel	Johnson (34th)	Poston	Wilson

Yeas--38

Arnold	Ducker	Knopke	Sayler
Beaufort	Fincher	Lewis (43rd)	Scarborough
Bell	Graham	McClain	Stolzenburg
Bishop	Gunter	Myers	Trask
Boyd	Henderson	Ott	Ware
Brantley	Hollahan	Plante	Weissenborn
Broxson	Horne	Pope	Williams
Childers	Johnson (29th)	Poston	Wilson
Daniel	Johnson (34th)	Reuter	
Deeb	Karl	Saunders	

Nays--7

Mr. President	Barrow	Lane	Weber
Barron	Haverfield	Lewis (33rd)	

HB 24-C—A bill to be entitled An act relating to Escambia County; providing for an increase in the limits authorized for compensation to justices of the peace of Escambia County upon resolution of the board of county commissioners of Escambia County; providing an effective date.

Was read the second time by title. On motion by Senator Broxson, by two-thirds vote HB 24-C was read the third time by title, passed and certified to the House. The vote was:

Yeas--38

Arnold	Ducker	Knopke	Sayler
Beaufort	Fincher	Lewis (43rd)	Scarborough
Bell	Graham	McClain	Stolzenburg
Bishop	Gunter	Myers	Trask
Boyd	Henderson	Ott	Ware
Brantley	Hollahan	Plante	Weissenborn
Broxson	Horne	Pope	Williams
Childers	Johnson (29th)	Poston	Wilson
Daniel	Johnson (34th)	Reuter	
Deeb	Karl	Saunders	

Nays--7

Mr. President	Barrow	Lane	Weber
Barron	Haverfield	Lewis (33rd)	

HB 30-C—A bill to be entitled An act relating to Alachua County; providing an annual salary for the judge and county solicitor of the Alachua County Court of Record; providing an effective date.

Was read the second time by title. On motion by Senator Saunders, by two-thirds vote HB 30-C was read the third time by title, passed and certified to the House. The vote was:

Yeas--38

Arnold	Ducker	Knopke	Sayler
Beaufort	Fincher	Lewis (43rd)	Scarborough
Bell	Graham	McClain	Stolzenburg
Bishop	Gunter	Myers	Trask
Boyd	Henderson	Ott	Ware
Brantley	Hollahan	Plante	Weissenborn
Broxson	Horne	Pope	Williams
Childers	Johnson (29th)	Poston	Wilson
Daniel	Johnson (34th)	Reuter	
Deeb	Karl	Saunders	

Nays--7

Mr. President	Barrow	Lane	Weber
Barron	Haverfield	Lewis (33rd)	

HB 31-C—A bill to be entitled An act relating to county judges; amending §44.12, Florida Statutes, providing an annual salary for the county judge of Alachua County; providing an effective date.

Was read the second time by title. On motion by Senator Saunders, by two-thirds vote HB 31-C was read the third time by title, passed and certified to the House. The vote was:

HB 43-C—A bill to be entitled An act relating to Hillsborough County; amending subsection (2) of § 2 of chapter 71- , Laws of Florida, (House Bill 1928, 1971 session), to provide for and clarify the annual compensation of the judge of the Hillsborough County civil court of record; providing an effective date.

Was read the second time by title. On motion by Senator Ott, by two-thirds vote HB 43-C was read the third time by title, passed and certified to the House. The vote was:

Yeas--38

Arnold	Ducker	Knopke	Sayler
Beaufort	Fincher	Lewis (43rd)	Scarborough
Bell	Graham	McClain	Stolzenburg
Bishop	Gunter	Myers	Trask
Boyd	Henderson	Ott	Ware
Brantley	Hollahan	Plante	Weissenborn
Broxson	Horne	Pope	Williams
Childers	Johnson (29th)	Poston	Wilson
Daniel	Johnson (34th)	Reuter	
Deeb	Karl	Saunders	

Nays--7

Mr. President	Barrow	Lane	Weber
Barron	Haverfield	Lewis (33rd)	

HB 47-C—A bill to be entitled An act relating to the salary of the County Judge of Highlands County, Florida, amending Florida Statute 44.12 from 15,500.00 to 19,000.00, providing an effective date.

Was read the second time by title. On motion by Senator Boyd, by two-thirds vote HB 47-C was read the third time by title, passed and certified to the House. The vote was:

Yeas--38

Arnold	Ducker	Knopke	Sayler
Beaufort	Fincher	Lewis (43rd)	Scarborough
Bell	Graham	McClain	Stolzenburg
Bishop	Gunter	Myers	Trask
Boyd	Henderson	Ott	Ware
Brantley	Hollahan	Plante	Weissenborn
Broxson	Horne	Pope	Williams
Childers	Johnson (29th)	Poston	Wilson
Daniel	Johnson (34th)	Reuter	
Deeb	Karl	Saunders	

Nays--7

Mr. President	Barrow	Lane	Weber
Barron	Haverfield	Lewis (33rd)	

HB 48-C—A bill to be entitled An act relating to Leon County; providing compensation for the judge of juvenile court, pursuant to chapter 39; providing an effective date.

Was read the second time by title. On motion by Senator Horne, by two-thirds vote HB 48-C was read the third time by title, passed and certified to the House. The vote was:

Yeas—38

Arnold	Ducker	Knopke	Saylor
Beaufort	Fincher	Lewis (43rd)	Scarborough
Bell	Graham	McClain	Stolzenburg
Bishop	Gunter	Myers	Trask
Boyd	Henderson	Ott	Ware
Brantley	Hollahan	Plante	Weissenborn
Broxson	Horne	Pope	Williams
Childers	Johnson (29th)	Poston	Wilson
Daniel	Johnson (34th)	Reuter	
Deeb	Karl	Saunders	

Nays—7

Mr. President	Barrow	Lane	Weber
Barron	Haverfield	Lewis (33rd)	

HB 57-C—A bill to be entitled An act relating to Brevard County; amending section 2 of chapter 71- , Laws of Florida (House Bill 2130, 1971 regular session); providing that the net interest cost to the board of county commissioners of Brevard County shall not exceed eight percent (8%) on the sale of certificates of indebtedness issued for the acquisition and construction of county-related projects; providing an effective date.

Was read the second time by title. On motion by Senator Reuter, by two-thirds vote HB 57-C was read the third time by title, passed and certified to the House. The vote was: Yeas—44 Nays—None

Arnold	Deeb	Karl	Reuter
Barron	Ducker	Knopke	Saunders
Barrow	Fincher	Lane	Saylor
Beaufort	Graham	Lewis (33rd)	Scarborough
Bell	Gunter	Lewis (43rd)	Stolzenburg
Bishop	Haverfield	McClain	Trask
Boyd	Henderson	Myers	Ware
Brantley	Hollahan	Ott	Weber
Broxson	Horne	Plante	Weissenborn
Childers	Johnson (29th)	Pope	Williams
Daniel	Johnson (34th)	Poston	Wilson

HB 61-C—A bill to be entitled An act relating to the City of Valparaiso, Okaloosa County; amending article V section 19, article IX section 39 and article 11 section 3 of chapter 9101, Laws of Florida, being the charter of the City of Valparaiso; providing that the City of Valparaiso may borrow money at a rate not to exceed nine and one half percent (9½%) for the making of civic improvements; providing that the city may issue special assessment certificates bearing an interest rate not to exceed four percent (4%) above prevailing bank interest rates; providing for qualifications for city officers; providing an effective date.

Was read the second time by title. On motion by Senator Barrow, by two-thirds vote HB 61-C was read the third time by title, passed and certified to the House. The vote was: Yeas—44 Nays—None

Arnold	Deeb	Karl	Reuter
Barron	Ducker	Knopke	Saunders
Barrow	Fincher	Lane	Saylor
Beaufort	Graham	Lewis (33rd)	Scarborough
Bell	Gunter	Lewis (43rd)	Stolzenburg
Bishop	Haverfield	McClain	Trask
Boyd	Henderson	Myers	Ware
Brantley	Hollahan	Ott	Weber
Broxson	Horne	Plante	Weissenborn
Childers	Johnson (29th)	Pope	Williams
Daniel	Johnson (34th)	Poston	Wilson

HB 64-C—A bill to be entitled An act creating a consolidated charter government for Leon County and the City of Tallahassee; providing general and urban services districts; providing legislative, executive, and judicial branches and providing for the organization, powers, duties, and functions thereof; pro-

viding the powers of the consolidated government; providing powers and procedures with respect to budget and financial matters, including the levy of ad valorem and other taxes, expenditures, investments, debt service, bonds and pledges therefor; providing for local improvements, election of officers, retirement and pension systems and miscellaneous matters; providing method of amending this charter; providing for orderly transition of present governmental functions to the consolidated government; providing for a special election to ratify this charter; providing an effective date.

Was read the second time by title. On motion by Senator Horne, by two-thirds vote HB 64-C was read the third time by title, passed and certified to the House. The vote was: Yeas—44 Nays—None

Arnold	Deeb	Karl	Reuter
Barron	Ducker	Knopke	Saunders
Barrow	Fincher	Lane	Saylor
Beaufort	Graham	Lewis (33rd)	Scarborough
Bell	Gunter	Lewis (43rd)	Stolzenburg
Bishop	Haverfield	McClain	Trask
Boyd	Henderson	Myers	Ware
Brantley	Hollahan	Ott	Weber
Broxson	Horne	Plante	Weissenborn
Childers	Johnson (29th)	Pope	Williams
Daniel	Johnson (34th)	Poston	Wilson

SCR 53-C—A concurrent resolution designating that portion of State Road 540 in Polk County, Florida, between U. S. 17 and U. S. 27, as Cypress Gardens Boulevard.

WHEREAS, State Road 540, from its intersection with U. S. 17 eastward to its intersection with U. S. 27 by general usage has come to be known as Cypress Gardens Road; and

WHEREAS, the proximity of Cypress Gardens to this stretch of road, together with the publicity and fame accorded it as one of America's outstanding tourist attractions, is responsible for the importance of State Road 540 and the increasing number of tourists who travel it; and

WHEREAS, through the phenomenal energies and efforts of Richard Downing Pope, a super salesman of the Southlands, begun modestly in the year 1935, Cypress Gardens has become a \$3,000,000-a-year botanical treasure, among the topmost publicized attractions in this country. Under his guidance the Gardens have become to water skiing what Churchill Downs is to horseracing and through fabulous publicity programs he has done as much as any man to make the beauty queen an American institution. Since 1935, the year of his first crowning, a thousand (1,000) queens have mounted his dais and they continue to mount it at the rate of fifty (50) a year. His queens and his lush botanical spectacular have been responsible for making the Gardens the setting for class A movies, innumerable television shows, news-reels, movie shorts, magazine covers, magazine stories and product advertisements, and in one (1) year some 6,000,000 post cards; and

WHEREAS, through the persuasive efforts of its fabulous founder, Dick Pope, Cypress Gardens stands as a monumental attraction bringing hundreds of thousands of tourists to Florida each year who otherwise might go elsewhere; and

WHEREAS, it is the expressed wish of the inhabitants of the nearby city of Winter Haven and the members of the Board of County Commissioners of Polk County that the name Cypress Gardens Boulevard be bestowed as hereinabove described, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That the portion of State Road 540 in Polk County, Florida between U. S. 17 and U. S. 27, be designated as Cypress Gardens Boulevard.

Be it Further Resolved that the division of road operations of the Department of Transportation is authorized and re-

quested to erect suitable signs and markers on said section of road to reflect the designation herein set forth.

Was taken up. On motion by Senator Trask, by two-thirds vote, SCR 53-C was read the second time by title, adopted and certified to the House. The vote was:

Yeas—43

Arnold	Deeb	Knopke	Saunders
Barron	Fincher	Lane	Sayler
Barrow	Graham	Lewis (33rd)	Scarborough
Beaufort	Gunter	Lewis (43rd)	Stolzenburg
Bell	Haverfield	McClain	Trask
Bishop	Henderson	Myers	Ware
Boyd	Hollahan	Ott	Weber
Brantley	Horne	Plante	Weissenborn
Broxson	Johnson (29th)	Pope	Williams
Childers	Johnson (34th)	Poston	Wilson
Daniel	Karl	Reuter	

Nays—1

Ducker

SCR 54-C—A concurrent resolution requesting that appropriate governmental action be taken to hold in public trust the ninety-nine and one half acres of the Bay Pines Veterans Administration Hospital complex in Pinellas County declared to be surplus acreage by the federal government and to insure its maintenance as a park in as natural a condition as possible accessible to the people of Florida.

WHEREAS, the general services administration of the federal government has declared ninety-nine and one half acres of what is presently a portion of the Bay Pines Veterans Administration Hospital complex to be surplus property, and

WHEREAS, no intention has been expressed on the part of the federal government to develop this location as a recreational area or park, and

WHEREAS, Pinellas County is a predominantly urban one which is experiencing rapid growth, and

WHEREAS, in both Pinellas County and this state public lands are diminishing generally, causing the ratio of people to public acreage to become increasingly disproportionate, and

WHEREAS, the people of Pinellas County desire that this land be preserved in as natural condition as is possible and that no development be authorized which would conflict with the concept of a public park or area in which the people would be welcome to enjoy the natural beauty of an area maintained for that purpose, and

WHEREAS, in this era of rapid expansion and growth, waterfront areas reserved for public use are becoming increasingly important and decreasingly available, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

Section 1. That appropriate government action be taken to hold in public trust the ninety-nine and one half acres of the Bay Pines Veterans Administration Hospital complex in Pinellas County declared to be surplus acreage by the federal government and to insure its maintenance as a park in as natural a condition as possible accessible to the people of Florida.

Was taken up. On motion by Senator Sayler, by two-thirds vote, SCR 54-C was read the second time by title, adopted and certified to the House. The vote was: Yeas—44 Nays—None

Arnold	Deeb	Karl	Reuter
Barron	Ducker	Knopke	Saunders
Barrow	Fincher	Lane	Sayler
Beaufort	Graham	Lewis (33rd)	Scarborough
Bell	Gunter	Lewis (43rd)	Stolzenburg
Bishop	Haverfield	McClain	Trask
Boyd	Henderson	Myers	Ware
Brantley	Hollahan	Ott	Weber
Broxson	Horne	Plante	Weissenborn
Childers	Johnson (29th)	Pope	Williams
Daniel	Johnson (34th)	Poston	Wilson

On motion by Senator Boyd, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Jerry Thomas
President of the Senate

June 22, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Ways and Means—

SB 5-C—A bill to be entitled An act relating to corporations, defining corporations; amending section 608.32, Florida Statutes, prescribing the contents of annual reports required to be filed by corporations; creating sections 608.321 and 608.3211, Florida Statutes, prescribing the taxable period for corporation reports and setting a due date for filing and a delinquency date; creating sections 608.322 and 608.3221, Florida Statutes, prescribing dates for the valuation of net worth and the determination of other information for all taxable periods; amending section 608.33, Florida Statutes, removing exemptions for railroad, pullman, telephone, telegraph, insurance, banking and trust companies, building and loan associations and cooperative marketing associations, providing for imposition of an annual corporate privilege tax on corporate net worth, setting a due date and a delinquency date for payments; creating sections 608.331 and 608.3311, Florida Statutes, prescribing taxes and tax rates; creating section 608.332, Florida Statutes, prescribing special rules for corporations in existence less than twelve months, for bankrupt, dissolved and withdrawing corporations, for consolidated returns by controlled groups of corporations, and adjustment powers of the department of revenue; creating section 608.333, Florida Statutes, providing for an apportionment of net worth to ascertain the portion attributable to Florida; creating section 608.334, Florida Statutes, providing for a credit of intangible personal property taxes against the corporate privilege tax attributable to subsidiary corporations, providing for a credit of insurance premium tax paid under chapter 624; creating section 608.335, Florida Statutes, providing for refund, hearing and appeal procedures, establishing a general three year statute of limitations for refunds and for assessments, and providing for the issuance of tax warrants for the collections of delinquent taxes; creating section 608.336, Florida Statutes, conforming references in the Florida Statutes; amending section 608.35, Florida Statutes, providing penalties for delinquent reports and payments and providing for interest on delinquent and overpaid taxes; creating section 608.311, Florida Statutes, defining corporations to include mutual insurers and other non-stock business associations subject to state regulation; amending section 608.05 and subsection (1) of section 613.02, Florida Statutes, providing for payment of the corporate privilege tax upon incorporation and qualification to do business in Florida; requiring the department of revenue to provide information regarding this act; repealing section 193.701, Florida Statutes, relating to railroad license tax; providing for effective dates; providing for excision of certain sections of this act when no longer needed; providing for sections 2 through 18 of this act to become inoperative if and so long as a tax is imposed by the state on the net income of corporations.

Amendment No. 1—

On page 3, line 16, strike all after enacting clause and insert the following:

Section 1. Section 608.311, Florida Statutes, is created to read:

608.311 Definition of Corporation.—For purposes of sections 608.32 through 608.35, the term "corporation" shall include the following entities and all references to corporate characteristics shall include corresponding or equivalent characteristics of non-corporate business associations:

(1) Corporations, mutual insurers and other non-stock business associations, exclusive of national banks, state banking and trust companies and savings and loan associations; and

(2) national banks, state banking and trust companies and savings and loan association.

Section 2. Section 608.32, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 608.32, Florida Statutes, for present text).

608.32 Corporation returns; filing; contents.—

(1) All corporations heretofore or hereafter incorporated in this state other than corporations not for profit, all foreign corporations heretofore or hereafter authorized to do business in this state other than those not for profit, and all other entities described in section 608.311, are required to file a return with the department of revenue on such forms as the department of revenue shall prescribe, setting forth:

(a) The name of the corporation;

(b) The home office of the corporation;

(c) The corporation's federal employer identification number;

(d) The date of incorporation or formation, or if a foreign corporation or association the date on which admitted to do business in this state or on which business actually commenced;

(e) The name and street address of each officer and director of the corporation, or trustee or manager of an association;

(f) The name and street address of the resident agent upon whom service of process may be made;

(g) A general description of the nature or type of business in which the corporation is engaged;

(h)(1) The capital stock of the corporation, showing:

(a) the authorized capital stock of the corporation segregated to reflect separately par value shares, no-par value shares and shares having a stated value; and

(b) the number and book value of the shares of each class or type of stock issued and outstanding, exclusive of treasury stock;

(2) If organized without capital stock, the general rules applicable to all members by which the property rights and interests, respectively, of each member may and shall be determined and fixed;

(i) The book value of the excess of assets over liabilities which is not reflected in the capital stock of the corporation, including but not limited to the amounts designated as earned, paid-in, capital and revaluation surplus, and amounts set aside in appropriated accounts;

(j) A balance sheet and a statement of retained earnings (collectively referred to in this chapter as "the financial statements"). The financial statements shall be prepared from the books of the corporation in accordance with generally accepted accounting principles, or as otherwise required by the state or its departments or agencies, and shall either be the statements which are furnished to shareholders or, if the corporation so elects, a copy of its balance sheet, income reconciliation and earnings analysis (schedules L and M on Form 1120 for 1970) as filed with the Internal Revenue Service. Where the financial statements or the federal return have been examined or prepared by an independent public accountant, the opinion of such accountant shall be attached. Corporations which report to their shareholders on the basis of consolidated financial statements may, at their option, file consolidated financial statements with the department of revenue, and in such cases the net worth of the parent corporation shall be equal to the consolidated net worth of the consolidated group;

(k) A declaration that all documentary stamp taxes applicable to their corporate stock transactions during the preceding taxable period have been paid;

(l) The methods, assumptions and bases upon which a taxpayer employing its net worth within and without the state has apportioned net worth in computing the tax due under this chapter; and

(m) Such other information and facts as the department of revenue may request for the purpose of computing the privilege tax imposed by this chapter.

(2) At the time of filing its return with the department of revenue, each corporation shall file with the secretary of state a clear and correct copy of that part of the return which contains the information required under paragraphs (a) through (h) of subsection (1).

(3) Corporations not for profit shall file with the secretary of state an annual report containing the information required under paragraphs (a) through (g) of subsections (1), which report shall be due and delinquent at the time returns are required under subsection (1) but without extensions.

(4) Each corporation return or report shall be signed by an authorized person on the form provided by the department of revenue, and the signing thereof shall have the same legal effect as if made under oath, without the necessity of appending such oath thereto.

Section 3. Section 608.321, Florida Statutes, is created to read:

Section 608.321. Corporation returns; taxable period; return due date.—

Commencing as of January 1, 1972, the taxable period for the corporate privilege tax imposed by this chapter shall be a calendar year. All returns shall be due on January 1 of the taxable year and shall be delinquent if not filed on or before May 1 of that year; provided, however, that the department of revenue may extend the date of delinquency for not more than 90 days, for good cause shown, upon receiving a prior written request for extension.

Section 4. Section 608.3211, Florida Statutes, is created to read:

Section 608.3211. Corporation returns; short taxable period ended December 31, 1971; return due date.—

For the period commencing July 1, 1971 and ending December 31, 1971, the taxable period for the corporate privilege tax imposed by this chapter shall be the six-month period ending December 31, 1971. All returns shall be due on July 1, 1971 and shall be delinquent if not filed on or before November 1, 1971; provided that the department of revenue may extend the date of delinquency for not more than 105 days, for good cause shown, upon receiving a prior written request for extension.

Section 5. Section 608.322, Florida Statutes, is created to read:

Section 608.322. Corporation returns; valuation date.—For each taxable period specified in section 608.321, the information and values required under subsection 608.32(1) shall be determined as of the close of the corporation's annual accounting period immediately preceding the commencement of the taxable period.

Section 6. Section 608.3221, Florida Statutes, is created to read:

Section 608.3221. Corporation returns; valuation date for short period ended December 31, 1971.—For the taxable period specified in section 608.3211, the information and values required under subsection 608.32(1) shall be determined as of the close of the corporation's annual accounting period immediately preceding July 1, 1971.

Section 7. Section 608.33, Florida Statutes, is amended to read:

(Substantial rewording of section. See section 608.33, Florida Statutes, for present text.)

608.33. Corporate privilege tax; imposition; due date.—

(1) Every corporation required to file a return under subsection 608.32(1) shall pay a tax to the state which shall be due on the first day of the taxable period, for the privilege of conducting business in the state during the taxable period. It is the intent of this section to impose a tax upon every corporation, foreign and domestic, for the privilege of exercising a corporate franchise, or its equivalent, within the state in advance of the exercise thereof, irrespective of whether the corporation actually chooses to exercise such privilege during the taxable period.

(2) The tax is imposed on the book value of the net worth of each corporation required to file a return under subsection 608.32(1), valued and apportioned as provided by law. The term "net worth" as used in this chapter shall mean the sum of the amounts determined under subparagraph (h)(2)(b) and paragraph (i) of subsection 608.32(1), less any cash or property dividends formally declared by the board of directors in the accounting period which ends on the date such values are determined, reduced however by any such dividends not actually paid to shareholders within 3 months after such declaration.

(3) The tax imposed by this section shall be due on the due date of the corporation return under subsection 608.32(1), and the full amount of tax shall be paid to the department of revenue on or before the delinquency date for such returns, including any extensions thereof. Any payment made after said date shall be deemed delinquent.

(4) Upon the filing of articles of incorporation for a domestic corporation under section 608.03, upon the filing of an authenticated copy of a charter or articles of incorporation for a foreign corporation under section 613.01, or upon the commencement of business or the effective date of this act, whichever first occurs, for any non-corporate insurer or other business association, there shall be paid to the department of state for transmission to the department of revenue a privilege tax of \$75 for the short taxable period commencing with the date of such filing, a commencement of business or effective date, as the case may be, and ending on December 31 of that year. At the time such corporation files its corporation return and pays its privilege tax for the full taxable period immediately succeeding such short taxable period, in cases where its first annual accounting period ends before said full taxable period, and in addition to the filing and payment for such full taxable period, the corporation shall file a corporation return under subsection 608.32(1) and shall pay the tax imposed by the chapter for such short taxable period, taking credit against such tax for the \$75 previously paid. Where a corporation's first annual accounting period does not end before January 1 of the full taxable period immediately succeeding a short taxable period, a privilege tax of \$75 shall be paid to the depart-

ment of revenue for such immediately succeeding full taxable period and the corporation shall pay the tax imposed by this chapter for such full taxable period at the time of filing its corporation return for the next succeeding taxable period, in addition to its filing and payment for that succeeding taxable period, taking credit for the \$75 paid for its first full taxable period.

Section 8. Section 608.331, Florida Statutes, is created to read:

Section 608.331. Corporate privilege tax; tax rate.—For taxable periods determined under section 608.321, the tax shall be an amount equal to \$1 on each \$1,000 of the corporation's net worth in excess of \$50,000, or if greater the minimum tax imposed by section 608.332.

Section 9. Section 608.3311, Florida Statutes, is created to read:

Section 608.3311. Corporate privilege tax; tax rate for short period ended December 31, 1971.—For the taxable period determined under section 608.3211, the tax shall be an amount equal to \$1.00 on each \$1,000 of the corporation's net worth in excess of \$50,000, or if greater the minimum tax imposed by section 608.3321.

Section 10. Section 608.332, Florida Statutes, is created to read:

Section 608.332 Corporate privilege tax; minimum tax.—For the taxable periods determined under section 608.321, each corporation shall pay a minimum tax of \$75 if the tax computed under section 608.331 is less than said amount.

Section 11. Section 608.3321, Florida Statutes, is created to read:

Section 608.3321 Corporate privilege tax; minimum tax for short period ended December 31, 1971.—For the taxable period determined under section 608.3211, each corporation shall pay a minimum tax of \$75.00 if the tax computed under section 608.3311 is less than said amount.

Section 12. Section 608.333, Florida Statutes, is created to read:

Section 608.333. Corporate privilege tax; special rules.—

(1) The tax imposed by section 608.33 shall be prorated for any domestic corporation which has been in existence, and for any foreign corporation which has been authorized to do business or has actually conducted business in the state, for less than twelve (12) months at the time the corporation return and privilege tax are due. The tax shall be prorated according to the number of months, including a major fraction thereof, the corporation has been in existence, authorized to do business in the state, or conducted business in the state.

(2) Any corporation which is adjudged bankrupt, or which is dissolved by order of court or voluntarily, or which withdraws from the state during the taxable period shall be entitled to a refund of tax on a prorata basis.

(3) The department of revenue may require any affiliated group of corporations to file a consolidated return whenever, in the judgment of the department, the filing of separate returns for the members of such group does not properly reflect the value of their net worth. The parent corporation of any affiliated group may elect to file a consolidated return for any year, which election shall pertain for all succeeding years for which the group is unchanged unless the department consents to a revocation of the election. In either case, the parent corporation shall pay the tax imposed by this chapter on the book value of its net worth, valued and apportioned as provided by law, and unless there has been a default in the parent corporation's payment no tax shall be levied upon or paid by component members of the affiliated group. The term "affiliated group of corporations" shall mean one or more chains of

corporations connected through stock ownership with a common parent corporation, provided that:

(a) stock possessing at least 80% of the voting power of all classes of stock and at least 80% of each class of the voting stock of each member of the affiliated group, except stock of the common parent corporation and any non-voting stock limited and preferred as to dividends, is owned directly by one or more of the member corporations; and

(b) the common parent corporation owns directly stock possessing at least 80% of the voting power of all classes of stock and at least 80% of each class of the non-voting stock (not limited and preferred as to dividends) of at least one of the member corporations.

(4) The department of revenue may review any returns, books or records of a taxpayer at all reasonable times. The department may adjust any item or items under this chapter, including but not limited to adjustments to the corporation's net worth to include therein any liabilities artificially or arbitrarily created or which are not appropriate liabilities under generally accepted or state-required accounting or actuarial principles applicable to the corporation's trade or business, if it appears that the corporation's treatment of such item or items either was principally motivated by a desire to evade or defeat the tax imposed by this chapter or will result in a material distortion of the book value of the corporation's net worth.

Section 13. Section 608.334, Florida Statutes, is created to read:

Section 608.334 Corporate privilege tax; credit for insurance premiums tax.—The insurance premium tax paid by insurers for the previous annual taxable period under the provisions of chapter 624 shall be credited against the tax imposed by section 608.33 for the current taxable period.

Section 14. Section 608.335, Florida Statutes, is created to read:

Section 608.335. Conforming references in Florida Statutes.—From and after July 1, 1971, all references in the Florida Statutes to "capital stock tax" shall be deemed references to the corporate privilege tax imposed by section 608.33, and all references to "corporation reports" shall be deemed references to corporation returns or reports required by section 608.32.

Section 15. Sections 608.34 and 608.35, Florida Statutes, are hereby repealed.

Section 16. Section 608.336, Florida Statutes, is created to read:

Section 608.336. Adoption of tax administration act of 1971.—The tax imposed by section 608.33 is hereby made subject to the tax administration act of 1971, chapter 214, Florida Statutes.

Section 17. Section 608.05, Florida Statutes, is amended by adding a new subsection (6) to read:

(6) Upon filing any articles of incorporation, the privilege tax imposed by section 608.33 shall be paid to the department of state and the department shall remit the tax to the department of revenue.

Section 18. Subsection (1) of section 613.02, Florida Statutes, is amended to read:

(1) Upon the filing of such copy, the department of state shall, if the objects of the corporation are such as are not prohibited by the laws of the state, issue a permit allowing such corporation to transact business in this state, and such corporation shall thereupon be empowered to exercise all and be limited to the same rights, powers and privileges as like corporations organized under the laws of this state, but the department shall not deliver such permit to the corporation until it shall have received from it, for the use of the state, a sum equal to the privilege tax imposed by section 608.33 and that which the said corporation would have been required to pay as a charter fee upon that portion of its capital employed, or to be employed, in the state if it had been incorporated under the laws of this state. The fee of the department of state for issuing the permit shall be ten dollars. In every case where application is made to the department of state for the issuance of a permit under this section, the department of state shall demand and receive from the applicant, for the use of the state, a fee calculated upon the basis of the total authorized capital stock of the corporation, as shown by its charter, unless the

applicant shall make it appear by such affidavit and other satisfactory evidence as the department of state may require to be submitted to it that the amount of capital of such foreign corporation employed, or to be employed, in the state, is less than the total amount of authorized capital stock shown by the charter of such foreign corporation; in which case, the department of state shall determine, from the evidence submitted to it what is the amount of capital employed in the state by said foreign corporation, and shall collect a sum in that event equal to that which the said corporation would have been required to pay as a charter fee if it had been incorporated under the laws of the state with an authorized capital equal to the amount of capital employed, or to be employed by such foreign corporation in the state. All determinations of fact made by the department of state in the administration of this law shall be prima facie evidence of the truth and validity of the finding of the department of state as to the amount of capital of such foreign corporation employed, or to be employed, in the state, upon which the charter fee provided for by this section is required to be computed and paid. *The privilege tax imposed by section 608.33 and collected by the department of state shall be remitted to the department of revenue.*

Section 19. Title XIII, Florida Statutes, is amended by adding a new chapter 214 to read:

CHAPTER 214

NON-PROPERTY TAXES; PROCEDURES, CRIMES, PENALTIES, ENFORCEMENT AND APPORTIONMENT

PART I ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW (§§214.01—214.26)

PART II PENALTIES, INTEREST AND ENFORCEMENT (§§214.40—214.62)

PART III TAX CRIMES (§§214.60—214.62)

PART IV APPORTIONMENT (§§214.70—214.73)

PART I

ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

- 214.01 Application of Chapter and Short Title
- 214.02 Collection Authority
- 214.03 Assessment
- 214.04 Limitation on Assessment
- 214.05 Notice and Demand
- 214.06 Deficiency Determinations
- 214.07 Notice of Deficiency
- 214.08 Assessment After Notice
- 214.09 Limitations on Notices and Deficiencies
- 214.10 Waiver of Restrictions on Assessment
- 214.11 Protest of Proposed Assessments
- 214.12 Jeopardy Assessments
- 214.13 Overpayments; Credits
- 214.14 Overpayments; Interest on
- 214.15 Overpayments; Refund
- 214.16 Limitations on Claims for Refunds
- 214.17 Access to Books and Records
- 214.18 Investigations and Hearings
- 214.19 Actions to Recover Taxes
- 214.20 Immunity of Witnesses
- 214.21 Production of Witnesses and Records
- 214.22 Confidentiality and Information Sharing
- 214.23 Amounts less than \$1
- 214.24 Procedure for Notices and Place of Hearings
- 214.25 Closing Agreements
- 214.26 Judicial Review

214.01 Application of chapter and short title.—

This chapter shall be applicable only to such non-property taxes (taxes not based upon the assessed value of property) as are expressly made subject to the provisions hereof. This

chapter shall be known and may be cited as the "tax administration act of 1971."

214.02 Collection Authority.—The department of revenue ("the department") shall collect the taxes imposed by laws made applicable to this chapter and shall pay all moneys received by it under such laws into the general revenue fund of the state.

214.03 Assessment.—

(1) The amount of tax which is shown to be due on any return shall be deemed assessed on the date of filing the return (including any amended returns showing an increase of tax). In the event that the amount of tax is understated on the taxpayer's return due to a mathematical error, the department shall notify the taxpayer that the amount of tax in excess of that shown on the return is due and has been assessed. Such notice of additional tax due shall not be considered a notice of deficiency nor shall the taxpayer have any right of protest. In the case of a return properly filed without a computation of the tax due, the tax computed by the department on the basis of the return shall be deemed assessed on the date the return is filed.

(2) Whenever a notice of deficiency has been issued, the amount of the deficiency shall be deemed assessed on the date provided in section 214.08 if no protest is filed, or if a protest is filed on the date when the decision of the department with respect to the protest becomes final as provided in subsection 214.11(4).

(3) Any amount paid as tax or in respect of tax under this act shall be deemed assessed upon the date of receipt of payment.

214.04. Limitation on Assessment.—No deficiency shall be assessed with respect to a taxable year for which a return was filed unless a notice of deficiency for such year was issued not later than the date prescribed in section 214.09.

214.05 Notice and Demand.—

(1) As soon as practicable after an amount payable under this act is deemed assessed under section 214.03, or any other provision of this act, the department shall give notice of the amount unpaid to each taxpayer liable for any unpaid portion of such assessment and shall demand payment thereof. The amount stated in such notice shall be payable upon receipt of such notice at the place and time stated in such notice.

(2) No notice and demand need be issued where a deficiency has been determined by a proceeding in court for review of an assessment.

214.06 Deficiency Determinations.—

(1) As soon as practicable after a return is filed, the department shall examine it to determine the correct amount of tax. If the department finds that the amount of tax shown on the return is less than the correct amount and the difference is not solely the result of mathematical error, it shall issue a notice of deficiency to the taxpayer setting forth the amount of additional tax and any penalties proposed to be assessed. The findings of the department under this subsection shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax and penalties due.

(2) If a taxpayer fails to file a tax return, the department shall determine the amount of tax due according to its best judgment and information, and it shall issue a notice of deficiency to the taxpayer setting forth the amount of tax and any penalties proposed to be assessed. The amount so determined by the department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due.

(3) An erroneous refund shall be considered a deficiency of tax on the date made, and shall be deemed assessed and shall be collected as provided in sections 214.03 and 214.05.

214.07 Notice of Deficiency.—A notice of deficiency issued under this act shall set forth, in addition to the amount of tax and any penalties, a computation of the adjustments giving rise to the proposed assessment and the reason or reasons thereof.

214.08 Assessment After Notice.—Upon the expiration of 60 days after the date on which it was issued (150 days if the taxpayer is outside the United States), a notice of deficiency shall

constitute an assessment of the amount of tax and penalties specified therein, except for amounts as to which the taxpayer shall have filed a protest with the department under section 214.11.

214.09 Limitations on Notices and Deficiencies.—

(1) Except as otherwise provided in this section:

(a) A notice of deficiency shall be issued not later than 3 years after the date on which the return was filed, and

(b) No deficiency shall be assessed or collected with respect to the taxable year for which the return was filed unless such notice is issued within such period.

(2) If the taxpayer omits from a return an amount properly includible therein which is in excess of 25% of the amount of gross income or property value, as the case may be, which is stated in the return, a notice of deficiency may be issued not later than 6 years after the date on which the return was filed. For purposes of this subsection, no amount shall be deemed omitted if such amount or the item giving rise to such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the department of the nature and the amount of such item.

(3) If no return is filed, or if a false and fraudulent return is filed with intent to evade the tax made applicable to this chapter, a notice of deficiency may be issued at any time.

(4) Where, before the expiration of the time prescribed in this section for the issuance of a notice of deficiency, both the department and the taxpayer have consented in writing to its issuance after such time, such notice may be issued at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(5) In any case where there has been an erroneous refund of tax, a notice of deficiency may be issued at any time within 2 years from the making of such refund, or within 5 years from the making of such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact; provided, however that if such notice of deficiency is issued after the time limitation prescribed in subsection (1) or (2), as may be appropriate, the amount of any proposed assessment set forth in such notice shall be limited to the amount of such erroneous refund.

(6) If a protest has been filed with respect to a notice of deficiency and the decision of the department on such protest has become final, the department shall be barred from issuing a further or additional notice of deficiency for the taxable years involved in such protest, except in the case of fraud, mathematical error, or as provided in subsection (5).

(7) For the purposes of this section a tax return filed before the last day prescribed by law (including any extension thereof) shall be deemed to have been filed on such last day.

214.10 Waiver of Restrictions on Assessment.—At any time, whether or not a notice of deficiency has been issued, a taxpayer shall have the right to waive the restrictions on assessment and collection of the whole or any part of any proposed assessment of tax by a signed notice in writing filed with the department in such form as the department may be regulation prescribe.

214.11 Protest of Proposed Assessment.—

(1) Within 90 days (150 days if the taxpayer is outside the United States) after the issuance of a notice of deficiency, the taxpayer may file with the department a written protest against the proposed assessment in such form as the department may by regulation prescribe, setting forth the portion or portions of the proposed deficiency protested and the grounds on which such protest is based.

(2) Whenever a protest is filed, the department shall reconsider the proposed assessment and, if the taxpayer has so requested, shall grant the taxpayer or his authorized representative a hearing. As soon as practicable after such reconsideration and hearing, if any, the department shall issue a notice of its decision to the taxpayer, setting forth the department's findings of fact and the basis of its decision in each matter decided in whole or in part adversely to the taxpayer.

(3) Within 60 days after the department issues a notice of its decision, the taxpayer may file with the department a written request for reconsideration in such form as the department may by regulation prescribe, setting forth the matters for which and the grounds upon which reconsideration is requested. In any such case, the department may, but need not, grant a rehearing or departmental review, and as soon as practicable after such rehearing or departmental review, the department shall issue a notice of its decision on reconsideration. If a rehearing or departmental review is not granted, then within 60 days of its receipt of such request the department shall issue a notice of denial of such request for reconsideration.

(4) The decision of the department on any taxpayer's protest shall become final 60 days after issuance of a notice of decision under subsection (2) unless a timely request for reconsideration was made under subsection (3), in which case the decision shall become final upon the issuance of a notice of denial of such request or the issuance of a notice of decision on reconsideration.

214.12 Jeopardy Assessments.—

(1) If the department finds that a taxpayer is about to depart from the state, to conceal its property or to do any other act tending to prejudice or to render wholly or partly ineffectual the normal procedures for collection of any amount of tax, penalty or interest made subject to this chapter, or if the department otherwise finds that the collection of such amount will be jeopardized by delay, the department shall issue to the taxpayer a notice of such findings and shall make demand for the immediate payment of such amount, whereupon such amount shall be deemed assessed and shall become immediately due and payable.

(2) If, within 5 days after issuance of a notice and demand, or within the period of any extension of time the department may grant, the taxpayer does not comply with such notice or show to the department that the findings in such notice are erroneous, the department may file a notice of jeopardy assessment lien in the office of the clerk of the circuit court of the county in which any property of the taxpayer may be located, and shall notify the taxpayer of such filing. A jeopardy assessment lien shall have the same scope and effect as other liens prescribed by this act.

(3) If the notice and demand relate to the taxpayer's current taxable period or year, the director shall declare the taxable period or year of the taxpayer immediately terminated and the notice and demand shall relate to the period or year declared terminated, including therein income, deductions and values accrued or accumulated up to the date of termination if not otherwise properly includible in respect of such taxable year or period.

(4) If the taxpayer believes that he does not owe some or all of the amount for which the jeopardy assessment lien against him has been filed, or that no jeopardy to the revenue in fact exists, it may protest to the department and request a hearing within 20 days after being notified of the filing of such jeopardy assessment lien, whereupon the department shall hold a hearing in conformity with the provisions of this act and, pursuant thereto, shall notify the taxpayer of its decision as to whether or not such jeopardy assessment lien will be released.

214.13 Overpayments; Credits.—

(1) If, after a return has been filed, the department finds that the tax paid with the return is more than the correct amount, it shall credit or refund the overpayment as is appropriate.

(2) In the case of any overpayment, the department may within the applicable period of limitations credit the amount of such overpayment, including any interest allowed thereon, against any part of the liability in respect of the tax giving rise to the overpayment of the taxpayer who made the overpayment, refunding any balance to such taxpayer.

214.14 Overpayments; Interest on.—Interest shall be allowed and paid at the rate of 6% per year upon any overpayment in respect of a tax made subject to this chapter, except that if any overpayment is refunded within 9 months after the last date prescribed for filing the return of such tax (including any extension thereof) or within 9 months after the return was filed, whichever is later, no interest shall be allowed on such

overpayment. For purposes of this section, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for such year was due under applicable law, without regard to any extension of the time for filing such return.

214.15 Overpayments; Refunds.—

(1) Every claim for refund shall be filed with the department in writing in such form as the department may by regulation prescribe, and shall state the amount claimed, the specific grounds upon which the claim is founded and the taxable years or periods involved.

(2) As soon as practicable after a claim for refund is filed, the department shall examine the claim and either issue a notice of refund, abatement or credit to the claimant or issue a notice of denial; provided, however, that if no notice is issued by the department before the expiration of 9 months from the date the claim was filed, the claim shall be deemed to have been denied for all purposes upon such expiration date.

(3) The denial of a claim for refund shall become final 60 days after the issuance of a notice of denial or after the date the claim is deemed denied, except for amounts as to which the claimant shall have filed a protest with the department under subsection (4).

(4) Within 60 days after the denial of the claim, the claimant may file with the department a written protest against such denial, in such form as the department may by regulation prescribe, setting forth the matter or matters protested and the grounds on which the protest is based. Whenever a protest is filed, the department shall reconsider the denial and, if the taxpayer has so requested shall grant the taxpayer or his authorized representative a hearing. As soon as practicable after such reconsideration and hearing, if any, the department shall issue a notice of its decision to the taxpayer, setting forth the department's findings of fact and the basis of its decision in each matter decided in whole or in part adversely to the claimant.

(5) Within 60 days after the department issues a notice of its decision, the claimant may file with a department a written request for reconsideration in such form as the department may by regulation prescribe, setting forth the matters for which and the grounds upon which reconsideration is requested. In any such case, the department may, but need not, grant a rehearing or departmental review, and as soon as practicable after such rehearing or departmental review the department shall issue a notice of its decision on reconsideration. If a rehearing or departmental review is not granted, then within 60 days of its receipt of such request the department shall issue a notice of denial of such request for reconsideration.

(6) The decision of the department on the claimant's protest shall become final 60 days after issuance of a notice of decision under subsection (4) unless a timely request for reconsideration was made under subsection (5), in which case the decision shall become final upon the issuance of a notice of denial of such request or the issuance of a notice of decision on reconsideration.

214.16 Limitations on Claims for Refund.—

(1) Except as otherwise provided in this section:

(a) A claim for refund shall be filed not later than 3 years after the date the return was filed or one year after the date the tax was paid, whichever is the later; and

(b) No credit or refund shall be allowed or made with respect to the taxable year for which a claim was filed unless such claim is filed within such period.

(2) Where, before the expiration of the time prescribed in this section for filing a claim for refund, both the department and the claimant shall have consented in writing to its filing after such time, such claim may be filed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(3) The amount of any credit or refund resulting from a claim for refund shall be limited as follows:

(a) If the claim was filed during the 3-year period prescribed in subsection (1), the amount of the credit or refund shall not

exceed the portion of tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return.

(b) If the claim was not filed within such 3-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the one year immediately preceding the filing of the claim.

(4) For purposes of this section a tax return filed on or before the last day prescribed by law for the filing of such return (determined without regard to any extensions thereon) shall be deemed to have been filed on such last day.

214.17 Access to Books and Records.— All books, records and other papers and documents which are required by applicable law to be kept shall be subject to inspection by the department or its duly authorized agents and employees at all times during business hours.

214.18 Investigations and Hearings.— For the purpose of administering and enforcing the provisions of applicable tax laws, the department, or any officer, agent or employee of the department designated by the executive director in writing or by regulation, may hold investigations and hearings concerning any matters, and may require the attendance of any individual, or any officer or employee of a taxpayer, having knowledge of such matters, and may take testimony and require proof for its information. In the conduct of any investigation or hearing, neither the department nor any officer, agent or employee thereof shall be bound by the technical rules of evidence, and the informality in any proceeding or in the manner of taking testimony shall not invalidate any order, decision, rule or regulation made or approved or confirmed by the department. Any officer or employee of the department authorized by the executive director or regulation shall have power to administer oaths. The books, papers, records and memoranda of the department, or parts thereof, may be proved in any hearing, investigation, or legal proceeding by a reproduced copy thereof under the certificate of the executive director, and any such reproduced copy shall, without further proof, be admitted into evidence before the department or in any legal proceeding.

214.19 Actions to Recover Taxes.— At any time that the department might commence proceedings for a levy under Part II of this act it may bring an action in any court of competent jurisdiction within or without the state, in the name of the state, to recover the amount of any taxes, penalties and interest due and unpaid under any law made applicable to this chapter. In any such action, a certificate of the department showing the amount of the delinquency shall be prima facie evidence of the correctness of such amount, of the validity of its assessment, and of its compliance with all the provisions of this act.

214.20 Immunity of Witnesses.— No person shall be excused from testifying or from producing any books, papers, records or memoranda in any investigation or upon any hearing, when ordered to do so by the department or any authorized officer, agent or employee thereof, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a criminal penalty; provided, however, that no natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath, shall be prosecuted or subjected to any criminal penalty for, or on account of, any transaction made or thing concerning which he may testify or produce evidence, documentary or otherwise, before the department or an officer, agent or employee thereof. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

214.21 Production of Witnesses and Records.—

(1) The department, or any officer or employee of the department designated by the executive director in writing or by regulation, shall at its or his own instance, or on the written request of any other party to the proceeding, issue subpoenas requiring the attendance of and the giving of testimony by witnesses, and issue subpoenas duces tecum requiring the production of books, papers, records or memoranda. All subpoenas and subpoenas duces tecum issued under this act may be served by any person of full age.

(2) Witnesses, other than employees of the state, shall be entitled to receive for attendance and travel the same fees as witnesses before the circuit courts of this state, such fees to be

paid when the witness is excused from further attendance. When the witness is subpoenaed for the department or any officer or employee thereof, such fees shall be paid in the same manner as other expenses of the department. When the witness is subpoenaed for any other party, the cost of subpoena service and the witness fee shall be borne by the party at whose instance the witness is summoned and the department may, in its discretion, require a deposit or advance payment to cover the cost of such service and witness fee. Subpoenas issued hereunder shall be served in the same manner as subpoenas issued from the circuit courts.

(3) Any circuit court of the state, or any judge thereof, upon application of the department or any officer or employee thereof, or upon the application of any other party to the proceeding may, in its or his discretion, compel the attendance of witnesses, the production of books, papers, records or memoranda and the giving of testimony before the department or any officer or employee thereof conducting an investigation or holding a hearing authorized by this act, in the same manner as the production of evidence may be compelled before said court.

214.22 Confidentiality and Information Sharing.—

(1) Except as provided in subsections (2) and (3), all information received by the department from returns filed under laws made applicable to this chapter, or from any investigation conducted under the provisions of this act, shall be confidential except for official purposes within the department or pursuant to official procedures for collection of any state tax or enforcement of any civil or criminal penalty or sanction imposed by this act or by another statute imposing a state tax. Any officer or employee of the department who shall divulge any such information in any manner, except for such purposes and pursuant to order of the department or in accordance with a proper judicial order, shall be guilty of a misdemeanor and, upon conviction thereof shall be fined not less than \$100 nor more than \$5,000, or be imprisoned for not less than one month nor more than one year, or be both so fined and imprisoned, in the discretion of the court.

(2) Nothing contained in this act shall prevent the department from publishing or making available to the public the names and addresses of persons filing returns under applicable laws, or from publishing or making available reasonable statistics concerning the operation of a tax provided that the contents of returns are grouped into aggregates in such a way that the information contained in any individual return is not thereby disclosed.

(3) The department may make available to the Secretary of the United States or his delegate, or the proper officer or his delegate of any other state imposing taxes made applicable to this chapter, for exclusively official purposes, information received by the department in the administration of any such tax law, but such permission shall be granted only if the United States or such other state, as the case may be, grants the department substantially similar privileges.

214.23 Amounts Less than \$1.—

(1) The department may by regulation provide that if a total amount of less than \$1 is payable, refundable or creditable, such amount either may be disregarded or shall be disregarded if it is less than 50 cents and shall be increased to \$1 if it is 50 cents or more.

(2) The department may by regulation provide that any amount which is required to be shown or reported on any return or other document required under laws made applicable to this chapter shall, if such amount is not a whole dollar, be increased to the nearest whole dollar in any case where the fractional part of a dollar is 50 cents or more and decreased to the nearest whole dollar where the fractional part of a dollar is less than 50 cents.

214.24 Procedure for Notices and Place of Hearings.—

(1) Whenever notice is required by this act, such notice shall, if not otherwise provided, be given or issued by mailing it by registered or certified mail to the taxpayer concerned at its last known address as shown on the most recently filed return under applicable law, or if no return has previously been filed at the address shown on the corporation report last filed under section 608.32, Florida Statutes.

(2) All hearings provided for in this act shall be held at the department's office nearest to the location of the taxpayer's

residence or principal place of business, except that the department may require a hearing to be held at its office in Leon County.

214.25 Closing Agreements.—The department may by regulation prescribe the manner and form of closing agreements by which the department and taxpayers may agree that any liability for tax, penalties and interest under laws made applicable to this act shall be forever barred, absent fraud or misrepresentation of a material fact.

214.26 Judicial Review.—

(1) The circuit court of the county in which the taxpayer has its residence or principal place of business, or of Leon County in those cases where the taxpayer does not have a residence or principal place of business in this state or so elects, shall have the power to review any assessment of tax by the department under the provisions of this act, and any such review shall be *de novo*.

(2) Service of summons upon the executive director in an action to review an assessment of the department shall be service upon the department and the state.

(3) The final decision in a proceeding to review an assessment under this act shall constitute the department's authority to refund, credit or collect any tax, penalties, and interest determined in such decision.

PART II

PENALTIES, INTEREST AND ENFORCEMENT

214.40 Penalties; Failure to File Timely Returns

214.41 Penalties; Failure to Pay Tax

214.42 Assessment of Penalties

214.43 Interest on Deficiencies

214.44 Liens; Attachment and Notice

214.45 Liens; Priority and Filing

214.46 Liens; Duration

214.47 Liens; Release

214.48 Liens; Certificate of Release

214.50 Liens; Foreclosure

214.51 Collection Procedures

214.52 Liability of Transferees

214.40 Penalties; Failure to File Timely Returns.—In case of failure to file any tax return required under laws made applicable to this chapter on the date prescribed therefor (including any extensions thereof), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added as a penalty to the amount of tax due with such return 5% of the amount of such tax if the failure is not for more than one month, plus an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 25% in the aggregate. For purposes of this section, the amount of tax due with any return shall be reduced by any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which was properly allowable on the date the return was required to be filed.

214.41 Penalties; Failure to Pay Tax.—

(1) If any part of a deficiency is due to negligence or an intentional disregard of rules and regulations prescribed by or under applicable law (but without intent to defraud), there shall be added to the tax as a penalty an amount equal to 5% of the deficiency.

(2) If any part of a deficiency is due to fraud, there shall be added to the tax as a penalty, in lieu of the penalty under subsection (1), an amount equal to 50% of the deficiency.

(3) For purposes of this section, the amount shown as tax by the taxpayer upon a return shall be taken into account in determining the amount of the deficiency only if such return was filed on or before the last day prescribed by law for the filing of such return, including any extensions of the time for such filing.

214.42 Assessment of Penalties.—The penalties provided by this Part shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes. Any reference in this act to the tax imposed by laws made applicable to this chapter shall be deemed a reference to penalties provided by this Part.

214.43 Interest on Deficiencies.—

(1) If any amount of tax imposed by laws made applicable to this chapter is not paid on or before the date prescribed for payment of such tax (determined without regard to any extensions), interest on the unpaid amount at the rate of 6% per year shall be paid from such date to the date of payment.

(2) Interest prescribed by this section on any tax, or on any penalty shall be deemed assessed upon the assessment of the tax or penalty to which such interest relates, and shall be collected and paid in the same manner as taxes. Any reference in this act to the tax imposed by laws made applicable to this chapter shall be deemed a reference to interest imposed by this section.

(3) No interest shall be imposed upon the interest provided by this section.

(4) Interest shall be paid in respect of any penalty which is not paid within 20 days of the notice and demand therefor, but only for the period from the date of the notice and demand to the date of payment.

(5) If notice and demand is made for the payment of any amount due under laws made applicable to this chapter and if such amount is paid within 30 days after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.

(6) Any tax, interest or penalty imposed by applicable laws or this act which has been erroneously refunded and which is recoverable by the department shall bear interest at the rate of 6% per year from the date of payment of such refund.

214.44 Liens; Attachment and Notice.—

(1) The state shall have a lien for all or any portion of the tax, any penalty or for any amount of interest which may be due, upon all the real and personal property of any taxpayer assessed with a tax under applicable laws or this act.

(2) If the lien arises from an assessment pursuant to a notice of deficiency, such lien shall not attach, and the notice described in subsection (3) shall not be filed, until all proceedings in court for review of such assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted.

(3) The lien created by assessment pursuant to a notice of deficiency shall expire unless a notice of lien is filed, as provided in this Part, within 5 years from the date all proceedings in court for the review of such assessment have terminated or the time for the taking thereof has expired without such proceeding being instituted. The lien created by assessment pursuant to the filing of a return without payment of the tax shown to be due or the penalty or interest properly due, shall expire unless a notice of lien is filed within 5 years from the date such return was filed with the department.

214.45 Liens; Priority and Filing.—

(1) Nothing in this Part shall be construed to give the state a preference over the perfected rights of any bona fide purchaser, mortgagee, judgment creditor or other lienholder in existence prior to the filing of notice of lien or of jeopardy assessment lien in the office of the clerk of the circuit court in the county in which the property subject to the lien is located.

(2) The clerks of the circuit courts of the several counties shall establish and maintain a file and index book for liens arising under this act and the laws made applicable hereto in the manner and form prescribed by the department, which shall contain numerical and alphabetical indices. Each entry in the file shall show the name and address of the taxpayer named in the notice, the tax to which the lien relates, the serial number of the notice, the date and hour of filing, whether the lien is a regular lien or a jeopardy assessment lien, and the amount of taxes, penalties and interest due and unpaid at the time the notice is filed.

214.46 Liens; Duration.—The liens arising under applicable laws and this act shall continue in effect for 5 years from the date of filing the notice of lien, unless sooner released or otherwise discharged.

214.47 Liens; Release.—

(1) The department may release all or any portion of the property subject to a lien if it determines that the release will not endanger or jeopardize the collection of the amount secured thereby.

(2) The department shall release all or any portion of the property subject to a lien upon a final determination of a court of competent jurisdiction that the taxpayer does not owe some or all of the amount secured by the lien or that no jeopardy to the revenue exists.

(3) The department shall release the lien against any taxpayer whenever the tax, penalties and interest covered by the lien are paid.

214.48 Liens; Certificates of Release.—

(1) The department shall issue a certificate of complete or partial release of lien:

(a) To the extent that the fair market value of any property subject to the lien exceeds 200% of the amount of the lien plus the amount of all prior liens upon such property;

(b) To the extent that such lien expires or otherwise becomes unenforceable;

(c) To the extent that the amount of such lien is paid, together with any interest which may become due between the date when the notice of lien is filed and the date when the amount of such lien is paid;

(d) To the extent that there is furnished to the department, on such form as the department may prescribe and with such surety or sureties as are satisfactory to the department, a bond that is conditioned upon the payment of 200% of the amount of such lien, plus any interest which may become due after the notice of lien is filed and before the amount thereof is fully paid;

(e) To the extent and under the circumstances specified in section 214.47.

(2) A certificate of complete or partial release of any lien shall be conclusive that the lien upon the property covered by the certificate is extinguished to the extent indicated by such certificate.

(3) The clerks of the circuit court shall permanently attach the certificates of release to the notice of lien or notice of jeopardy assessment lien and record same whenever a certificate of complete or partial release of lien issued by the department is presented for filing in the office where a notice of such lien was filed.

214.49 Liens; Costs.—The department shall not be required to furnish any bond or to make a deposit or to pay any costs or fees of any court or officer thereof in any legal proceedings or in connection with the recordation in any county of any notice or other document filed by the department pursuant to the provisions of this act.

214.50 Liens; Foreclosure.—In addition to any other remedy provided by the laws of this state, and provided that no hearing or proceedings for review provided by this act shall be pending and that the time for the taking thereof shall have expired, the department may foreclose in any court of competent jurisdiction any lien on real or personal property for any tax, penalty or interest to the same extent and in the same manner as in the enforcement of other liens. Any proceeding to foreclose shall be instituted not more than 5 years after the filing, or availability for filing, of the notice of lien under the provisions of section 214.45.

214.51 Collection Procedures.—

(1) In addition to any other remedy provided by the laws of this state, if any tax imposed by laws made applicable to this act is not paid within the time required by this act, the department, or someone designated by it, may cause a demand to be made on the taxpayer for the payment thereof. If such tax remains unpaid for 10 days after such demand has been

made and no proceedings have been taken to review the same, the department may issue a warrant directed to any sheriff or other person authorized to serve process, commanding said sheriff or other person to levy upon and sell the real and personal property of the taxpayer found within his jurisdiction for the payment of the amount thereof, including penalties, interest and the cost of executing the warrant. Such warrant shall be returned to the department together with the money collected by virtue thereof within the time therein specified, which shall not be less than 20 nor more than 90 days from the date of the warrant. The sheriff or other person to whom such a warrant shall be directed shall proceed upon the same in all respects and with like effect as is prescribed by law for executions issued against property upon judgments of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. No proceedings for a levy under this section shall be commenced more than 5 years after the filing of the notice of lien under the provisions of this Part.

(2) Whenever an execution or writ of attachment issued from any court for the enforcement or collection of any tax liability created by laws made applicable to this act shall be levied by any sheriff or other authorized person upon any personal property, and such property shall be claimed to be exempt from execution or attachment by any person other than the defendant in the execution or attachment, then it shall be the duty of the person making such claim to give notice in writing of his claim and of his intention to prosecute the same, to the sheriff or other person within 10 days after the making of said levy. The giving of such notice shall be a condition precedent to any legal action against the sheriff or other authorized person for wrongful levy or seizure or for sale of said property, and any such person who fails to give notice within said time shall be forever barred from bringing any legal action against such sheriff or other person for injury or damages to or conversion of said property.

214.52 Liability of Transferees.—The liability of a transferee of a taxpayer for any tax, penalty or interest due shall be assessed, paid and collected in the same manner and subject to the same provisions and limitations as in the case of the tax to which the liability relates. The term "transferee" shall include any corporation or other person which succeeds by operation of law or otherwise to substantially all of the business or property of a taxpayer.

PART III

TAX CRIMES

214.60 Willful and Fraudulent Acts

214.61 Willful Failure to Pay Over

214.62 Aiding and Abetting

214.60 Willful and Fraudulent Acts.—Any taxpayer who is subject to the provisions of this act and who willfully fails to file a return, or to keep required books and records, or who files a fraudulent return, or who willfully violates any rule or regulation of the department, or who willfully attempts in any other manner to evade or defeat any tax imposed by laws made applicable to this act or the payment thereof shall, in addition to other penalties, be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$75 or more than \$10,000, or shall be imprisoned for not less than 6 months nor more than 5 years, or be both so fined and imprisoned, in the discretion of the court.

214.61 Willful Failure to Pay Over.—Any person who accepts money from a taxpayer that is due to the department, for the purpose of acting as the taxpayer's agent to make the payment to the department, but who willfully fails to remit such payment to the department when due or who purports to make such payment but willfully fails to do so because his check or other remittance fails to clear the bank or other depository against which it is drawn, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$5,000, or be imprisoned for not less than 1 month nor more than 1 year, or be both so fined and imprisoned, in the discretion of the court.

214.62 Aiding and Abetting.—Any person who aids, abets, counsels or conspires to commit any of the acts described in section 214.60 or 214.61 shall be subject to fine or imprison-

ment to the same extent as the perpetrator of such act could be fined or imprisoned.

PART IV

APPORTIONMENT

214.70 Definition

214.71 Apportionment; General Method

214.72 Apportionment; Methods for Special Industries

214.73 Apportionment; Other Methods

214.70 Definition.—The term "tax base" as used in this Part shall mean the amount to which a tax rate is applied under any law made applicable to this chapter, exclusive of any exemptions from or credits against such tax which are authorized by the law imposing such tax.

214.71 Apportionment; General Method.—Except as otherwise provided in sections 214.72 and 214.73, the base upon which any tax made applicable to this chapter shall be apportioned shall be determined by multiplying same by a fraction, the numerator of which is the sum of the property factor, the payroll factor and the sales factor, and the denominator of which is three (3). In the event any of the factors described in subsections (1), (2) or (3) has a denominator which is zero or is determined by the department to be insignificant, the denominator of the apportionment fraction shall be reduced by the number of such factors.

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year or period, and the denominator of which is the average value of such property owned or rented and used everywhere.

(a) Real and tangible personal property owned by the taxpayer shall be valued at original cost. Real and tangible personal property rented by the taxpayer shall be valued at eight (8) times the net annual rental rate paid by the taxpayer less any annual rental rate received from sub-rentals.

(b) The average value of real and tangible personal property shall be determined by averaging the value at the beginning and the end of the taxable year or period, unless the department determines that an averaging of monthly values during the taxable year or period is reasonably required to reflect properly the average value of the taxpayer's real and tangible personal property.

(2) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year or period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year or period.

(a) The term "compensation" shall mean wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(b) Compensation is paid in this state if:

(1) the employee's service is performed entirely within the state; or

(2) the employee's service is performed both within and without the state but the service performed without the state is incidental to the employee's service within the state; or

(3) some of the employee's service is performed in the state and (i) the base of operations, or if there is no base of operations the place from which the service is directed or controlled is in the state, or (ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed and the employee's residence is in this state.

(3) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

(a) Sales of tangible personal property are in this state if:

(1) the property is delivered or shipped to a purchaser within this state, regardless of the f.o.b. point or other conditions of the sale; or

(2) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state, and either the purchaser is the United States government or the taxpayer is not subject to a comparable tax on the sale in the state of the purchaser.

(b) Sales of a financial organization, including but not limited to banking and savings institutions, investment companies, real estate investment trusts and brokerage companies, shall be in this state if derived from:

(1) fees, commissions or other compensation for financial services rendered within this state;

(2) gross profits from trading in stocks, bonds or other securities managed within this state;

(3) interest and dividends received within this state;

(4) Interest charged to customers at places of business maintained within this state for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts; and

(5) any other gross income resulting from the operation as a financial organization with this state. In computing the amounts referred to in this subsection, any amount received by a member of an affiliated group (determined under section 1504(a) of the Internal Revenue Code but without reference to whether any such corporation is an "includible corporation" under section 1504(b) of the Internal Revenue Code) from another member of such group shall be included only to the extent such amount exceeds expenses of the recipient directly related thereto.

214.72 Apportionment; Methods for Special Industries.—

(1)(a) Except as provided in paragraph (b), the tax base of an insurance company for a taxable year or period shall be apportioned to this state by multiplying such base by a fraction, the numerator of which is the direct premiums written for insurance upon properties and risks in this state and the denominator of which is the direct premiums written for insurance upon properties and risks everywhere. For purposes of this paragraph, the term "direct premiums written" means the total amount of direct premiums written, assessments and annuity considerations as reported for the taxable year or period on the annual statement filed by the company with the Commissioner of Insurance in the form approved by the National Convention of Insurance Commissioners or such other form as may be prescribed in lieu thereof.

(b) If the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the tax base of such company shall be apportioned to this state by multiplying such base by a fraction, the numerator of which is the sum of (i) direct premiums written for insurance upon properties and risks in this state, plus (ii) premiums written for reinsurance accepted in respect of properties and risks in this state, and the denominator of which is the sum of direct premiums written for insurance upon properties and risks everywhere plus premiums written for reinsurance accepted in respect of properties and risks everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect of properties and risks in this state, whether or not otherwise determinable, may, at the election of the company, either be determined on the basis of the proportion which premiums written for reinsurance accepted from companies resident in or having a regional home office in the state bears to premiums written for reinsurance accepted from all sources or, alternatively, be determined on the basis of the proportion which the sum of the direct premiums written for insurance upon properties and risks in this state by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year.

(2) The tax base for a taxpayer furnishing transportation services, for the purpose of computing a tax on those activities, shall be apportioned to this state by multiplying such base by a fraction the numerator of which is the revenue miles of the taxpayer in this state and the denominator of which is the revenue miles of the taxpayer everywhere.

(a) For transportation other than by pipeline, a revenue mile is the transportation of 1 passenger or 1 net ton of freight the distance of 1 mile for a consideration. Where a taxpayer is engaged in the transportation of both passengers and freight, the fraction shall be determined by means of an average of the passenger revenue mile fraction and the freight revenue mile fraction, weighted to reflect the taxpayer's relative railway operating income from total passenger and total freight service as reported to the Interstate Commerce Commission in the case of transportation by railroad, or relative gross receipts from passenger and freight transportation in case of transportation other than by railroad.

(b) For transportation by pipeline, a revenue mile is the transportation by pipeline of 1 barrel of oil, 1,000 cubic feet of gas, or of any specified quantity of any other substance, the distance of 1 mile for a consideration.

(c) For purposes of paragraph (a), in computing the revenue miles of any taxpayer engaged in furnishing air or sea transportation services to or from points in the state from or to points outside the state but in the continental United States, the "revenue miles in this state" shall include all miles traversed from points of origin in the state to the point at which the carrier crosses the northern land border of the state, the meridian of longitude 87 degrees 30' west from Greenwich, or the parallel of latitude 31 degrees north from the equator, as the case may be, and with respect to transportation emanating outside the state but in the continental United States, all miles traversed from such crossing places to points of destination in this state. The "revenue miles in this state" shall also include all miles traversed between points in this state, even though the route of travel is not wholly over the land mass of the state. The department may prescribe standard mileage tables for the purpose of determining revenue miles in the state under this paragraph, rather than requiring taxpayers to compute from their records the actual number of miles traversed within such boundaries or points from time to time.

214.73 Apportionment; Other Methods.—If the apportionment methods of sections 214.71 and 214.72 do not fairly represent the extent of a taxpayer's tax base attributable to this state, the taxpayer may petition for, or the department may require, in respect of all or any part of the taxpayer's tax base, if reasonable:

- (1) separate accounting;
- (2) the exclusion of any one or more factors;
- (3) the inclusion of one or more additional factors which will fairly represent the taxpayer's tax base attributable to this state; or
- (4) the employment of any other method which will produce an equitable apportionment.

Section 20. As promptly as possible after this act becomes law, the department of revenue shall produce and distribute the forms and notices necessary for compliance with this act, and it shall develop and distribute such summaries or explanations of the law, or rules and regulations, as will enable corporations to comply herewith.

Section 21. Section 193.701, Florida Statutes, relating to railroad license tax, is repealed.

Section 22. This act shall take effect July 1, 1971; provided, however, that nothing in this act shall be construed as affecting in any way the capital stock tax levy and reporting requirements under present law for the taxable period ending June 30, 1971, or the administration and enforcement of said levy for such year and all prior years.

Section 23.

(1) The legislature shall have power, by joint resolution, to delete any section or sections of chapter 608, Florida Statutes, when all events to which they are or could be applicable have occurred and when it is no longer deemed essential to retain them in the Florida Statutes for reference. The legislative determinations of fact made as a basis for deletions shall be subject to judicial review.

(2) The legislative service bureau shall not remove present sections 608.32 and 608.33 from the Florida Statutes before December 31, 1973, at the earliest, but shall publish both those sections and the replacement provisions of this act, with appro-

priate references to their respective effective dates, in all official publications of Florida law at least until that date.

Section 24. Sections 2 through 9, and sections 12 through 14 of this act shall become suspended upon the effective date of a tax imposed by the state on the net income of corporations, and shall remain suspended and inoperative thereafter so long as such tax remains in effect. If for any reason the tax on corporate net income imposed by the state shall be declared ineffective, inoperative, void or unconstitutional, then the period of suspension shall terminate and said sections of this act shall again be in effect commencing on the date such declaration becomes effective, including any period prior to the determination when the net income tax was inoperative, unconstitutional, void or ineffective. The fact that provisions of this act shall become suspended and inoperative shall in no way impair or abate the liability of any corporation for tax which became due prior to the date on which this act becomes suspended, whether or not the return delinquency date occurred before such date, nor shall such fact prevent the administration and enforcement of this act after such date with respect to taxes due prior thereto.

Section 25. If any section, subsection, sentence, clause, phrase or word of this chapter is for any reason held or declared to be unconstitutional, invalid, inoperative, ineffective, inapplicable or void, such invalidity or unconstitutionality shall not be construed to affect the portions of this chapter not so held to be unconstitutional, void, invalid or ineffective, or affect the application of this chapter to other circumstances not so held to be invalid, it being hereby declared to be the express legislative intent that any such unconstitutional, illegal, invalid, ineffective, inapplicable or void, portion or portions of this chapter did not induce its passage, and that without the inclusion of any such unconstitutional, illegal, invalid, ineffective or void portions of this chapter, the legislature would have enacted the valid and constitutional portions thereof. In particular, it is the intent of the legislature that if any provision of this act shall be declared invalid or inoperative as to any national bank for periods prior to January 1, 1972 by reason of a conflict with 12 United States Code 548 (Section 5219, Revised Statutes), then subsection 608.311(2), Florida Statutes, as created by this act shall be deemed severed from the other provisions of this act until January 1, 1972, and no persons named therein shall be subject to tax hereunder until January 1, 1972.

Amendment 2—

In the title, line 3, strike all of the title on pages 1 and 2; lines 1-13 page 3 and insert the following:

A bill to be entitled

An act relating to corporations; repealing present sections 608.32, 608.33, 608.34 and 608.35, Florida Statutes, prescribing the filing of annual reports and imposing a capital stock tax; creating new sections 608.32, 608.33 and other sections in chapter 608, Florida Statutes, defining corporations, removing exemptions for railroad, pullman, telephone, telegraph, insurance, banking and trust companies, building and loan associations and cooperative marketing associations and prescribing the filing of corporation returns and the imposition of an annual corporate privilege tax on corporate net worth; creating chapter 214, Florida Statutes, providing for administrative procedures, judicial review, penalties, interest, crimes and apportionment rules; amending section 608.05 and subsection 613.02(1), Florida Statutes, providing for payment of the corporate privilege tax upon incorporation and qualification to do business in Florida; requiring the department of revenue to provide information regarding this act; repealing section 193.701, Florida Statutes, relating to the railroad license tax; providing an effective date; providing for statutory revisions; providing for suspension of the tax so long as an income tax is imposed by the state; providing a severability clause.

Amendment 3—

On page 10, line 3, strike "\$1.00" and insert the following: "\$.50"

Amendment 4—

On page 10, line 18, strike \$75.00 and insert the following: \$37.50

Amendment 5—

On page 45, strike all of lines 14 through 18 and insert the following: other penalties, be guilty of a felony in the third degree, punishable as provided in sections 775.082 or 775.083, as published in chapter 71-136, Laws of Florida.

Amendment 6—

On page 45, strike all of lines 27 through 30, and on page 46, strike all of line 1 and insert the following: shall be guilty of a misdemeanor in the second degree, punishable as provided in sections 775.082 or 775.083, as published in chapter 71-136, Laws of Florida.

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

SB 5-C, together with the House amendments, contained in the above message, was referred to the Committee on Ways and Means.

The Honorable Jerry Thomas
President of the Senate

June 22, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended—

HB 17-C

HB 18-C

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

The Honorable Jerry Thomas
President of the Senate

June 22, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Ways and Means—

SB 7-C—A bill to be entitled An act relating to tax on sales, admissions, use, storage, consumption, or rentals levied pursuant to chapter 212, Florida Statutes; amending section 212.05 (6), Florida Statutes, to increase the tax on the sale, rental, use, consumption or storage for use in this state on certain industrial equipment to four percent (4%); providing an effective date and an expiration date.

Amendment 1—

On page 1, line 15, strike all after the enacting clause and insert the following:

Section 1. Section 212.02, Florida Statutes, is amended by amending paragraphs (3) (c) and (6) (h), and by amending subsection (12) to read:

212.02 Definitions.—The following terms and phrases when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(3)(c) The terms "retail sales," "sale at retail," "use," "storage" and "consumption" shall not include the sale, use, storage or consumption of industrial materials for future processing, manufacture or conversion into articles of tangible personal property for resale where such industrial materials become a component part of the finished product or are used directly and immediately dissipated in fabricating, converting or processing such materials or parts thereof, nor shall such terms include materials, containers, labels, sacks or bags intended to be used for one time only for packaging tangible personal property for sale. "Immediately dissipated" as used herein shall mean one time use, materials, containers, labels, sacks or bags intended to be used one time only for packaging tangible personal property for sale and shall not include the sale, use, storage, or consumption of industrial materials for future processing, manufacture, or conversion into articles of

tangible personal property for resale where such industrial materials become a component or ingredient of the finished product; provided, however, that said terms shall include the sale, use, storage or consumption of tangible personal property, including fuels, used and dissipated in fabricating, converting or processing tangible personal property for sale.

(6) "Lease," "let," or "rental" means leasing or renting of living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, rooming houses, tourist or trailer camps and real property, the same being defined as follows:

(h) "Real property" means any interest in the surface of real property unless said property is:

1. Assessed as agricultural property under section 193.461.
1. 2. Subject to transient rental tax under section 212.03.
2. 2. Dwelling units exempt under section 212.03(4).
3. 4. Property subject to tax on parking, docking or storage spaces under section 212.03(6).

(12) "Tangible personal property" means and includes personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses, including electric power or energy, boats, motor vehicles as defined in section 320.01(1), aircraft as defined in section 330.01, and all other types of vehicles. The term "tangible personal property" shall not include stocks, bonds, notes, insurance, or other obligations or securities, intangibles as defined by the intangible tax law of the state, or pari-mutuel tickets sold or issued under the racing laws of the state. The term "tangible personal property" does include electric power or energy.

Section 2. Subsection (4) of section 212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, etc.—

(4) The tax levied by this section shall not apply to, be imposed upon, or collected from any person who shall reside continuously longer than twelve months at any one hotel, apartment house, rooming house, tourist or trailer camp, and shall have paid the tax levied by this section for twelve months of residence in any one hotel, rooming house, apartment house, tourist or trailer camp. Notwithstanding other provisions of this chapter, no tax shall be imposed upon rooms provided guests when there is no consideration involved between guest and the public lodging establishment.

Section 3. Paragraphs (a) and (b) of subsection 212.03(1), Florida Statutes, are amended to read:

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, or letting any real property unless such property is:

1. Assessed as agricultural property under section 193.461.
1. 2. Used exclusively as dwelling units under section 212.03(4).
2. 3. Property subject to transient rental tax under section 212.03.
3. 4. Property subject to tax on parking, docking or storage spaces under section 212.03(6).

(b) When a lease involves multiple use of real property wherein a part of the real property is subject to the commercial rental tax herein, and a part of the property would be excluded from the tax under subparagraphs 1., 2., 3., or 4. 3. of this subsection, the department shall determine from the lease and such other information as may be available, that portion of the total rental charge which is exempt from the tax imposed by this section.

Section 4. Section 212.05, Florida Statutes, is amended by amending subsections (1), (3), (5), (6) and (7) to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or

article of tangible personal property as defined herein and who leases or rents such property within the state. For the exercise of said privilege a tax is levied on each taxable transaction or incident and shall be due and payable, according to the brackets set forth in section 212.12(10), as follows:

(1) At the rate of four percent of the sales price of each item or article of tangible personal property when sold at retail in this state; the tax to be computed on each taxable sale for the purpose of remitting the amount of tax due the state, and to include each and every retail sale. *Occasional or isolated sales of boats and other vehicles in this state which are documented by the United States government or which are required to be registered, licensed or titled in this state shall be subject to tax at the rate provided in this subsection.*

(3) At the rate of four percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, except the rental of motion picture film where an admission is charged for viewing such film, and except in the case of a lease or rental of a motor vehicle to one lessee or rentee for a period of not less than twelve months where tax was paid on the acquisition of such vehicle by the lessor, where the lease or rental of such property is an established business or part of an established business, or the same is incidental or germane to said business.

(5) At the rate of four percent on charges for all telegraph messages and long distance telephone calls, beginning and terminating in this state, and recurring charges to regular subscribers for local telephone service, and for wired television service and all charges for the installation of telephonic, wired television and telegraphic equipment and at the same rate on all charges for electrical power or energy. Telephone and telegraph services originating within this state and completed outside this state or originating outside this state and completed within this state are not taxable. The provisions of subsections 212.17(3) and (8), regarding credit for tax paid on charges subsequently found to be worthless shall be equally applicable to any tax paid under the provisions of this section on charges for telephone and telegraph services and electric power subsequently found to be uncollectible. The word "charges" in this subsection shall not include any excise or similar tax levied by the federal government, any political subdivision of the state, or any municipality upon the purchase or sale of telephone, wired television or telegraph service or electric power, which tax is collected by the seller from the purchaser.

(6) At the rate of ~~three~~ four percent on the sale, rental, use, consumption or storage for use in this state of machines and equipment and parts and accessories therefor used in manufacturing, processing, compounding, producing, mining or quarrying, personal property for sale or to be used in furnishing communications, transportation or public utility services; provided, however, that in the case of any written agreement executed prior to June 1, 1971 which became binding before the effective date of this act, for the sale, rental, use, consumption or storage for use in this state of such property, the dealer making such agreement and paying the tax, or its assigns, may apply to the department within three (3) years after the effective date of this act and, upon furnishing sworn proof of the existence of such binding written agreement and of the payment of such taxes, shall obtain a refund of twenty-five percent (25%) of the tax paid with respect to such property.

(7) The said tax shall be collected ~~from~~ by the dealer as defined herein and ~~paid remitted by him to the state~~ at the time and in the manner as hereinafter provided.

Section 5. Section 212.06, Florida Statutes, is amended by amending subsection (5) and by adding new subsection (10) to read:

212.06 Sales, storage, use tax; collectible from dealers; dealers defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(5) It is not the intention of this chapter to levy a tax upon tangible personal property imported, produced or manufactured in this state for export, provided that tangible personal property shall not be considered as being imported, produced or manufactured for export unless the importer, producer or manufacturer delivers the same to a licensed exporter for exporting, or to a common carrier for shipment outside the state or mails the same by United States mail to a destination out-

side the state; or in the case of aircraft being exported under their own power to a destination outside the continental limits of the United States, or in the case of parts and equipment installed on aircraft of foreign registry, by submission to the department of duly authenticated copies of an aircraft manifest and a duly signed and validated United States customs declaration, each showing the departure of the aircraft and the export of the parts and equipment from the continental United States; and further with respect to aircraft, the cancelled United States registry of said aircraft; nor is it the intention of this chapter to levy a tax on radio and television broadcasting, or any sale which the state is prohibited from taxing under the constitution or laws of the United States. Every retail sale made to a person physically present at the time of sale shall be presumed to have been delivered in this state unless the purchaser shall at the time of purchase execute an affidavit declaring that the property is intended for use or consumption outside the state.

(10) No title certificate shall be issued on a boat or any vehicle, or if no title is required by law no license or registration shall be issued for any boat or vehicle, unless there be filed with such application for title certificate or license or registration certificate a receipt issued by an authorized dealer or a designated agent of the department of revenue, evidencing the payment of the tax imposed by this chapter where the same is payable. For the purpose of enforcing this provision, all county tax collectors and any and all persons or firms authorized to sell or issue boat and vehicle licenses are hereby designated agents of the department and are required to perform such duty in the same manner and under the same conditions prescribed for their other duties by the constitution or any statute of this state. All transfers of title to boats, motor vehicles and all other vehicles are presumed to be taxable transactions until otherwise shown.

Section 6. Subsection 212.07(5), Florida Statutes, is amended to read:

212.07 Sales, storage, use tax; tax added to purchase price; dealer not to absorb; liability of purchasers who cannot prove payment of the tax; penalties; general exemptions.—

(5) The gross proceeds derived from the sale in this state of livestock, poultry and other farm products direct from the farm are exempted from the tax levied by this chapter, provided that such sales are made directly by the producers. The producers shall be entitled to such exemptions although said livestock so sold in this state may have been registered with a breeders or registry association prior to said sale and although said sale takes place at a livestock show or race meeting, so long as said sale is made by the original producer and within this state. When sales of livestock, poultry or other farm products are made to consumers by any person, as defined herein, other than a producer, they are not exempt from the tax imposed by this chapter; provided that the foregoing exemption shall not apply to ornamental nursery stock offered for retail sale by the producer.

Section 7. Section 212.08, Florida Statutes, is amended by amending subsections (1), (3), (4) and (6), and by adding a new paragraph (h) to subsection (7) to read:

212.08 Sales, rental, storage, use tax: specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution and the storage to be used or consumed in this state, of the following tangible personal property, are hereby specifically exempt from the tax imposed by this chapter.

(1) Exemptions; General Groceries.—There shall be exempt from the tax imposed by this chapter foods and drinks for human consumption, particularly including foods such as milk and milk products cereal and cereal products (meal, grits, flour, bread and other bakery products), meats (fresh, frozen, canned, salt or cured) and meat products, poultry and poultry products, vegetables and vegetable juices, fruits and fruit juices (not including soft drinks), seafoods, canned goods (including jams, jellies and preserves), nuts, berries, melons, sugar, salt, coffee and coffee substitutes, tea, cocoa, condiments, spices, spreads, relishes, desserts, flavoring, oleo-margarine and shortening, also and candy, but only when the price at which the same said candy is sold is twenty five cents or less; provided, that unless the exemption provided by paragraph 7(b) for school lunches shall pertain, none of such items of food and drink shall mean (a) foods and drinks (which include meals, milk and milk products, fruit and fruit products,

sandwiches, salads, processed meats and seafoods, vegetable juices, ice cream in cones or small cups) served, prepared or sold in or by restaurants, drugstores, lunch counters, cafeterias, hotels, or other like places of business, or by any business or place required by law to be licensed by the division of hotels and restaurants of the department of business regulation, or (b) foods and drinks sold ready for immediate consumption from vending machines, pushcarts, motor vehicles, or any other form of vehicle, or (c) soft drinks or (d) foods cooked and prepared on their premises and which are sold ready for immediate consumption, either on or off the premises.

(3) Exemptions, Partial; Motor Vehicles and Certain Farm Equipment.—

(a) There shall be taxable at the rate of three percent the sale, use, consumption, or storage for use in this state of motor vehicles and self-propelled or power-drawn farm equipment used exclusively by a farmer on a farm owned, leased, or sharecropped by him in plowing, planting, cultivating, or harvesting crops, and ships and equipment designed for and used exclusively by commercial fisheries. Occasional or isolated sales of motor vehicles are likewise subject to the tax at the rate provided in this paragraph. The rental of motor vehicles and self-propelled or power-drawn farm equipment shall be taxed at the rate of four percent.

(b) The sale or lease of motor vehicles to be used by the purchaser or lessee exclusively for lease or rental to another or others shall be exempt from the tax imposed by this chapter as constituting a sale for the purpose of resale, where the lease or rental of such motor vehicles is an established part of an established business, or the same is incidental or germane to said business, and the operator of such business shall be deemed to be a dealer as defined in this chapter. When the tax at the rate of four percent of the gross proceeds derived by such dealer from the lease or rental of motor vehicles to one lessee or renter has aggregated a sum equal to three per cent of the sale or lease price paid by such dealer for said motor vehicles no further tax shall accrue with respect to that particular lease or rental transaction.

(c) No title certificate shall be issued by the department of highway safety and motor vehicles on any motor vehicle unless there be filed with such application for title certificate receipt issued by an authorized motor vehicle dealer or a designated agent of the department of revenue, evidencing the payment of such tax where the same is payable. For the purpose of enforcing this provision, all county tax collectors and any and all persons or firms authorized to sell or issue motor vehicle licenses are hereby designated agents of the department and are required to perform such duty in the same manner and under the same conditions prescribed for their other duties by the constitution or any statute of this state. Other provisions of this chapter relating to trade-ins are applicable to motor vehicles; however, all transfers of title to motor vehicles are presumed to be taxable transactions until otherwise shown. The term "motor vehicle" as used in this subsection shall have the same meaning ascribed in section 320.01(1) or section 320.01; however, any vehicle required to be licensed under section 320.03 with a "GW" series tag shall not be construed to be a motor vehicle under the provisions of this subsection and is taxable at the rate of four percent. The term "motor vehicle dealer" as used in this subsection shall have the same meaning ascribed in section 320.60(12).

(4) Exemptions, Items Bearing Other Excise Taxes, Etc.—Also exempt are water (not exempting mineral water or carbonated water, all fuels used by a public or private utility, including municipal corporations and rural electric cooperative associations, in the generation of electric power or energy for sale and motor fuels (as defined in section 207.01) and special fuels (as defined in section 200.01) on which a tax is imposed by either chapter 208 or 200, chapter 206. All other fuels are taxable except that those used to transport persons or property in interstate or foreign commerce are taxable only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier, during the previous fiscal year of the carrier, such ratio to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases made in this state by the carrier of gasoline and other fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter. Alcoholic beverages and malt beverages are not exempt. The terms "alcoholic beverages" and "malt beverages" as used in this subsection shall have the same meaning ascribed to them

in section 561.01(3) and (7), respectively. It is determined by the legislature that the classification of alcoholic beverages made in this subsection for the purpose of extending the tax imposed by this chapter is reasonable and just, and it is intended that such tax be separate from and in addition to any other tax imposed on alcoholic beverages.

(6) Exemptions; Political Subdivision, Communications.—There shall also be exempt from the tax imposed by this chapter sales made to the United States government, the state, or any county, municipality or political subdivision of this state; provided this exemption shall not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision thereof, except public works in progress or for which bonds or revenue certificates have been validated on or before August 1, 1959; and further provided this exemption shall not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission or distribution of electrical energy by systems owned and operated by a political subdivision in this state. Likewise exempt are newspapers, film rentals when an admission is charged for viewing such film and charges for services rendered by radio and television stations including line charges, talent fees, or license fees and charges for films, video tapes, and transcription used in producing radio or television broadcasts.

(7) Miscellaneous Exemptions.—

(h) Guide dogs for the blind.—Also exempt are the sale or rental of guide dogs for the blind commonly referred to as "seeing-eye dogs," and the sale of food or other items for said guide dogs or for consumption or use by such dogs.

Section 8. Section 212.17, Florida Statutes, is hereby amended by adding new subsection (8) to read:

212.17 Credits for returned goods, rentals or admissions; additional powers of department.—

(8) No refund or credit shall be allowed under subsection (2) or (3) when a dealer has collected from the vendee any amount which is equal to or greater than the tax imposed by this chapter, and no refund or credit shall be allowed under said subsections to the extent of his collection when a dealer has collected any lesser amount, it being the intent of this provision that every dealer shall be required to treat the first consideration received on every transaction as a collection of the tax imposed by this chapter.

Section 9. Chapter 212, Florida Statutes, is amended by adding section 212.082 to read:

212.082 Refund on sale or rental of guide dogs, or food or other items purchased for said guide dogs; claims; procedures; refund blanks.—

(1) Any person who purchases or rents any of the articles exempted by section 212.08(7)(h), Florida Statutes, on which the tax imposed by chapter 212, Florida Statutes, has been paid, shall be entitled to a refund of the state tax; provided, however, that no refund shall be authorized unless sworn applications therefor containing such information as the department of revenue determines shall be filed with the department not later than January 31 immediately following the year for which refund is claimed, provided that when a claim is filed after January 31 and there is presented to the department a justified excuse for late filing, and the last preceding claim was filed on time, such late filing may be accepted through February of the filing year; and provided further, that no refund shall be authorized unless the amount due is five dollars (\$5) or more in any twelve (12) month period.

(2) The department of revenue shall annually furnish claimants with blank refund applications.

(3) (a) When any article exempted under section 212.08(7)(h), Florida Statutes, is sold to a person who claims to be entitled to said exemption and to subsequent refund subsection (1) of this section, the seller of such article shall make out a sales invoice, which shall contain the following information:

1. The name and address of the purchaser;
2. The article purchased;

3. The date on which purchase was made;
4. The price paid for said article; and
5. The name and place of business of the seller of the tax-exempt article.

(b) The sales invoice shall be retained by the purchaser for attachment to his application for refund as a part thereof. No refund shall be allowed unless the seller executes such invoices and proof of payment of such taxes for which refund is claimed is attached.

(4) When the department is satisfied that a refund is proper, it shall authorize the amount of the state sales and use tax paid to be refunded as other refunds are made.

Section 10. If any section, subsection, paragraph, or other provision of this act shall be held invalid or unconstitutional, such holding shall not affect the validity of any other section, subsection, paragraph, or other provision. The legislature hereby expresses the intent that it would have enacted the other provisions of the act as if the invalid or unconstitutional provision was not contained within the act.

Section 11. The tax imposed by this act on coin-operated vending machines and on cable television shall take effect on October 1, 1971, and all other provisions of this act shall take effect July 1, 1971; provided, however, the tax imposed by this act on the renting, leasing or letting of real property assessed as agricultural property shall not apply to any lease or rental agreement entered into prior July 1, 1971.

Amendment 2—

In title strike all of the title and insert the following: An Act relating to sales and use taxes; amending chapter 212, Florida Statutes, to eliminate partial tax exemptions on vehicles, industrial machinery and commercial fishing vessels; to extend taxation to cable television, complimentary rents, agricultural leases, isolated sales of registered or titled vehicles and boats, fuels and other industrial materials immediately dissipated, ornamental nursery stock, electrical transmission and distribution equipment, and vehicles purchased by rental car companies; to reduce credits for bad debts and repossessions to the extent tax has been paid by the vendee; to exempt the sale or lease of seeing-eye dogs; to improve administration; providing an effective date.

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
 Clerk, House of Representatives

SB 7-C, together with the House amendments, contained in the above message, was referred to the Committee on Ways and Means.

The Honorable Jerry Thomas
 President of the Senate

June 22, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Ways and Means—

SB 9-C—A bill to be entitled An act relating to beverage licenses; amending section 561.34, Florida Statutes, providing for revision of the state, county, and municipal license taxes on dealers in alcoholic beverages; repealing section 561.36 and subsection 561.26(2), Florida Statutes; amending section 561.35, Florida Statutes; creating section 561.342, Florida Statutes, providing for the return of a percentage of the state license tax to the counties and municipalities; providing an effective date.

Amendment 1—

On page 1, line 15, strike everything after the enacting clause and insert the following:

Section 1. Subsections 561.46(2), (3), (4), (5) and (6), Florida Statutes, are amended to read:

561.46 Excise tax on beverages; exemptions.—

(2)(a) As to beverages including wines, except natural sparkling wines and malt beverages, containing more than one per cent alcohol by weight and less than fourteen per cent alcohol by weight, there shall be paid by all manufacturers and distributors a tax at the rate of one dollar and fifteen cents per gallon.

(b) As to all wines, except natural sparkling wines, containing more than one per cent alcohol by weight and less than fourteen per cent alcohol by weight, manufactured in Florida from Florida-grown fresh fruits, berries or grapes and not from concentrates thereof, except concentrates of fruits, berries or grapes grown and concentrated in Florida and bottled in Florida and upon all other such beverages except malt beverages, containing more than one per cent alcohol by weight and less than fourteen per cent alcohol by weight manufactured and bottled in Florida from Florida-grown citrus products, citrus by-products, honey, fresh fruits, berries, grapes, sugar cane, guavas, potatoes, peaches, papayas, strawberries and mangoes, and not from concentrates thereof except concentrates grown and concentrated in the state the tax imposed by paragraph (a) hereof shall not apply provided, however, that in lieu thereof there shall be paid by all manufacturers and distributors a tax of twenty-three cents per gallon upon such beverages. *Provided further, that the rate of tax imposed by this paragraph shall be increased by the following schedule: October 1, 1971 - 11.5%; October 1, 1972 - 11.5% October 1, 1973 - 11.5%*

(3) As to all wines, except natural sparkling wines containing fourteen per cent or more alcohol by weight, there shall be paid by manufacturers and distributors a tax at the rate of one dollar sixty cents per gallon; provided, however, that there shall be paid by all manufacturers and distributors a tax of thirty-five cents per gallon and no more upon all wines manufactured in Florida from fresh fruits, berries or grapes and not from concentrates thereof, except concentrates of fruits, berries or grapes grown and concentrated in the state, bottled within this state and containing fourteen per cent or more of alcohol by weight. *Provided, further, that the rate of tax imposed on beverages made from Florida products by this subsection shall be increased by the following schedule: October 1, 1971 - 15¢; October 1, 1972 - 15¢; October 1, 1973 - 15¢.*

(4) As to natural sparkling wines there shall be paid by all manufacturers and distributors a tax at the rate of two dollars thirty cents per gallon; provided, however, that there shall be paid by all manufacturers and distributors a tax of forty-six cents per gallon and no more, upon all natural sparkling wines manufactured in Florida from fruits, berries or grapes and not from concentrates thereof, except concentrates of fruits, berries or grapes grown and concentrated in this state and bottled within this state. *Provided, further, that the rate of tax imposed on beverages made from Florida products by this subsection shall be increased by the following schedule: October 1, 1971 - 25¢; October 1, 1972 - 23¢; October 1, 1973 - 23¢.*

(5)(a) As to beverages containing fourteen per cent or more of alcohol by weight and not more than forty-eight per cent of alcohol by weight, except wines, there shall be paid by all manufacturers, distributors and vendors a tax at the rate of ~~three two~~ dollars and ~~seventy-five six~~ cents per gallon. *The additional tax due by vendors shall be payable on or before July 31, 1968.*

(b) As to all such beverages manufactured and bottled in Florida from Florida-grown citrus products, citrus by-products, honey, fresh fruits, berries, grapes, sugar cane, guavas, potatoes, peaches, papayas, strawberries and mangoes, and not from concentrates thereof, except concentrates grown and concentrated in the state the tax imposed by paragraph (a) hereof shall not apply; provided, however, that in lieu thereof there shall be paid by all manufacturers and distributors a tax at the rate of ~~ninety-five and eight-tenths fifty-six~~ cents per gallon. *Provided, further, that the rate of tax imposed by this paragraph shall be increased by the following schedule: October 1, 1971 - 30.9¢; October 1, 1972 - 30.9¢; October 1, 1973 - 30.9¢.*

(6)(a) As to beverages containing more than forty-eight per cent of alcohol by weight, there shall be paid by all manufacturers, distributors and vendors a tax at the rate of ~~seven five~~ dollars and ~~fifty-two~~ cents per gallon.

(b) As to all such beverages manufactured and bottled in Florida from Florida-grown citrus products, citrus by-products, honey, fresh fruits, berries, grapes, sugar cane, guavas, potatoes, peaches, papayas, strawberries and mangoes, and not from concentrates thereof except concentrates grown and concentrated in the state the tax imposed by paragraph (a) hereof shall not apply; provided, however, that in lieu thereof there shall be paid by all manufacturers and distributors a tax at the rate of one dollar eighty-nine and six-tenths ~~ten~~ cents per gallon. *Provided, further, that the difference between the rate of tax imposed by this paragraph and the rate of tax imposed by paragraph (a) of this subsection shall be reduced and eliminated by the following schedule: October 1, 1971 - 61.8¢; October 1, 1972 - 61.8¢; October 1, 1973 - 61.8¢.*

Section 2. Sections 561.461 and 561.64, Florida Statutes, are hereby repealed.

Section 3. Subsection 561.26(2), Florida Statutes, relating to the equality of the county license taxes to the state license taxes imposed under the chapter is hereby repealed.

Section 4. Section 561.36, Florida Statutes, relating to municipal license taxes is hereby repealed,

Section 5. Section 561.34, Florida Statutes, is amended to read:

561.34 License fees; vendors.—

(1) Each vendor of malt beverages containing alcohol of more than one percent by weight shall pay an annual state license tax as follows:

~~(a) Vendors of malt beverages containing alcohol of more than one per cent by weight fifteen dollars.~~

~~(b) In counties that have voted against the sale of intoxicating beverages, vendors of beverages containing alcohol of more than one per cent by weight and not more than three and two-tenths per cent by weight, fifteen dollars.~~

~~(c) Vendors of malt beverages containing alcohol of more than one percent by weight for consumption off the premises only, seven and one-half dollars.~~

~~(d) In counties that have voted against the sale of intoxicating beverages, vendors of beverages containing alcohol of more than one per cent by weight and not more than three and two-tenths per cent by weight for consumption off the premises only, seven and one-half dollars.~~

~~(2) (a) Vendors of beverages containing alcohol of more than one per cent by weight and not more than fourteen per cent by weight, and wines regardless of alcoholic content, fifty dollars.~~

~~(b) Vendors of beverages containing alcohol of more than one per cent by weight and not more than fourteen per cent by weight and wines regardless of alcoholic content, for consumption off the premises only, twenty-five dollars.~~

~~(a) Vendors operating places of business where beverages are sold only for consumption off the premises, an amount equal to fifty percent of the amount of the license tax herein provided for vendors in the same county operating places of business where consumption on the premises is permitted.~~

~~(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over one hundred thousand, according to the latest state or federal census, two hundred dollars.~~

~~(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over seventy-five thousand and not over one hundred thousand, according to the latest state or federal census, one hundred sixty dollars.~~

~~(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over fifty thousand and less than seventy-five thousand, according to the latest state or federal census, one hundred twenty dollars.~~

~~(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over twenty-five thousand and less than fifty thousand, according to the latest state or federal census, eighty dollars.~~

~~(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than twenty-five thousand, according to the latest state or federal census, forty dollars.~~

~~(2) (a) Each vendor Vendors of beverages containing alcohol of more than one percent by weight and not more than fourteen percent by weight, and wines regardless of alcoholic content, shall pay an annual state license tax as follows:~~

~~(a) Vendors operating places of business where beverages are sold only for consumption off the premises, an amount equal to fifty percent of the amount of the license tax herein provided for vendors in the same county operating places of business where consumption on the premises is permitted.~~

~~(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over one hundred thousand, according to the latest state or federal census, two hundred eighty dollars.~~

~~(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over seventy-five thousand and not over one hundred thousand, according to the latest state or federal census, two hundred forty dollars.~~

~~(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over fifty thousand and less than seventy-five thousand, according to the latest state or federal census, two hundred dollars.~~

~~(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over twenty-five thousand and less than fifty thousand, according to the latest state or federal census, one hundred sixty dollars.~~

~~(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than twenty-five thousand, according to the latest state or federal census, one hundred twenty dollars.~~

~~(3) The following license taxes shall apply to vendors who are permitted to sell any such beverages regardless of alcoholic content:~~

~~(a) Vendors operating places of business where beverages are sold only in sealed containers for consumption off the premises where sold, an amount equal to seventy-five percent of the amount of the license tax herein provided for vendors in the same county as provided in paragraphs (b), (c), (d), (e) and (f) of this subsection. operating places of business where consumption on the premises is permitted.~~

~~(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over one hundred thousand, according to the latest state or federal census, one thousand seven hundred fifty dollars.~~

~~(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population over seventy-five ~~sixty~~ thousand and not over one hundred thousand, according to the latest state or federal census, one thousand five hundred ~~six hundred~~ dollars.~~

~~(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over fifty ~~forty~~ thousand and not over seventy-five ~~sixty~~ thousand, according to the latest state or federal census, one thousand two hundred fifty ~~five hundred~~ dollars.~~

~~(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over twenty-five ~~ten~~ thousand and not over fifty ~~forty~~ thousand, according to the latest state or federal census, eight hundred twenty five ~~three hundred~~ dollars.~~

~~(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of twenty-five ~~ten~~ thousand or less, according to the latest state or federal census, six ~~two~~ hundred dollars.~~

~~(g) Vendors operating places of business where consumption on the premises is permitted and which have three or more separate locations serving alcoholic beverages for consumption~~

on the licensed premises shall pay in addition to the license tax imposed in paragraphs (b), (c), (d), (e) and (f), one thousand dollars.

(4) Any operator of railroads or sleeping cars in this state may obtain a license to sell the beverages mentioned in the beverage law on passenger trains on the payment of an annual license tax of *two thousand five hundred two hundred fifty* dollars, said tax to be paid to the division. Such license shall authorize the holder thereof to keep for sale and sell all beverages mentioned in the beverage law upon any dining, club, parlor, buffet or observation car operated by it in this state, but said beverages may be sold only to passengers upon said cars and must be served for consumption thereon. It is unlawful for such licensees to purchase or sell any liquor except in miniature bottles of not more than two ounces. Every such license shall be good throughout the state. No license shall be required or tax levied by any municipality or county for the privilege of selling such beverages for consumption in such cars. Such beverages shall be sold only on cars in which are posted certified copies of the licenses issued to such operator. Such certified copies of such licenses shall be issued by the division upon the payment of a tax of *ten one* dollars.

(5)(a) Operators of steamships and steamship lines, buses and bus lines, airplanes and airlines engaged in interstate commerce or flying between fixed terminals and upon fixed schedules in this state may obtain licenses to sell the beverages mentioned in the beverage law on steamships, buses and airplanes operated by such operators on payment of an annual license tax of *one thousand one hundred* dollars, said tax to be paid to the division. Such license shall authorize the holders thereof to keep for sale and sell all beverages mentioned in the beverage law upon any steamship, bus or airplane operated by such operators in this state but said beverages may be sold only to passengers upon such steamships, buses and airplanes and may be served only for consumption thereon. It is unlawful for such licensee to purchase for resale any liquor except in miniature bottles of not more than two ounces or liquor in individual containers of not less than one fifth of one gallon. Such sales shall be permitted only while said steamships, buses and airplanes are in transit and shall not be permitted while such steamships are moored at docks or wharves in ports of this state, or while said buses are at stations, or while airplanes are in airports. Every such license shall be good throughout the state. No license shall be required or tax levied by any municipality or county for the privilege of selling such beverages for consumption on such steamships, buses or airplanes. Such beverages shall be sold only on steamships, buses and airplanes in which are posted certified copies of the license issued to their operators. Certified copies of such license shall be issued by the division upon payment of a fee of *twenty five one* dollars for each certified copy; provided, that this paragraph shall not apply to operators of pleasure or excursion boats not having regular round trip runs of more than one hundred miles in each direction, but operators of such pleasure or excursion boats may obtain a license, with such boats being designated as their place of business, upon compliance with all the laws relating to vendors operating places of business where consumption on the premises is permitted; provided further, that no license to sell the beverages herein defined shall be issued to the operator of any boat which applies upon or is anchored upon the waters of any lake within this state.

(b) Operators of railroads, sleeping cars, steamships, buses and airplanes licensed under this section shall not be required to obtain their beverages from licenses under the beverage law, but such operators shall keep strict account of all such beverages sold within this state and shall make monthly reports to the division on the forms prepared and furnished by the division. Said operators are hereby required to pay an excise tax for said beverages sold within this state as to which such excise tax has not theretofore been paid, equal to the tax assessed against manufacturers and distributors. Said operators shall pay said tax monthly to the division at the same time they furnish the reports hereinabove provided for. Said reports shall be filed on or before the fifteenth day of each month for sales for the previous calendar month.

(6) Persons associated together as a chartered or incorporated club, including social clubs incorporated by orders of circuit judges after their charters have been found to be for objects authorized by law and approved by said judges as organized for lawful purposes and not for the purpose of evading license taxes on dealers in beverages defined herein,

which such organizations are bona fide clubs, and at the time of application for license hereunder shall have been in continuous active existence and operation for a period of not less than two years in the county where they exist, shall before serving or distributing to their members or nonresident guests the beverages defined herein, whether such service or distribution be made upon contribution to the club of money or by check or other device, pay an annual state license tax *taxes of four hundred dollars; as follows:* To the state *\$125.00*
To the county *\$125.00*

provided, that any golf club operated by or on behalf of any incorporated municipality in this state, and any veteran's or fraternal organization of national scope, need not have been, or need not be, in continuous active existence or operation for any required period of time prior to an application for license hereunder. The payment of such club license tax shall authorize the service and distribution to members and nonresident guests of the club only and such service and distribution to said members and nonresident guests shall not be deemed sales within the meaning of the law in this state but any service or distribution to anyone other than a member or nonresident guest of such licensed club shall be deemed a sale and any officer, member or employee of any such licensed club who shall sell or distribute or serve any such beverages to any person other than a member or nonresident guest of such club for money or other value shall be deemed guilty of selling such beverages without a license and shall be punished as provided by law. Any officer of any such club which has not paid such license, who shall knowingly permit such service or distribution by such club of the beverages herein defined to members or nonresident guests of such club shall, upon conviction thereof, be punished as herein provided; provided, that this paragraph shall not apply to clubs organized or used for the purpose of evading the payment of the license tax on vendors of such beverages, but such club shall be subject to the payment of the license tax imposed by the beverage law upon vendors. The president, vice-president, secretary or treasurer or officers of corresponding duties, by any name they may be called, of any club required by this section to pay a license tax, shall be required to see that such license tax shall be paid and in default thereof shall each be personally liable to the punishment provided by the beverage law for nonpayment of the license hereby required; provided, further, that clubs not authorized to obtain licenses under this subsection or which do not obtain license under this subsection may, if they comply with this provision of the beverage law, obtain licenses as vendors. Clubs obtaining such club licenses shall not purchase any beverage herein defined from anyone other than a distributor licensed under the beverage law, nor shall such clubs dispense or serve any beverages defined herein unless such beverages shall have been purchased by such club from such licensed distributor; nor shall they dispense or serve any such beverage on which a tax stamp is required by the beverage law unless the containers of such beverages have affixed to them the stamps required by said law. Such club license cannot be transferred in any manner whatsoever.

(7) Caterers at horse and dog race tracks and jai alai frontons may obtain licenses upon the payment of an annual state license tax of *six hundred and seventy five two hundred fifty dollars* and an annual county license tax of *two hundred fifty dollars*. Incorporated municipalities may provide for a municipal license tax on such caterers of *fifty percent of the state and county license tax*, to be deducted from the state and county license tax as provided herein with reference to other municipal license taxes. Such caterers' licenses shall permit sales only within the enclosure wherein such races or jai alai games are conducted and such licensees shall be permitted to sell only during the period beginning ten days before and ending ten days after racing or jai alai under the authority of the state racing commission of the division of pari-mutuel wagering of the department is conducted at such race track or jai alai fronton. Except as in this subsection otherwise provided caterers licensed hereunder shall be treated as vendors licensed to sell by the drink the beverages mentioned herein and shall be subject to all the provisions hereof relating to such vendors.

(8) (a) Any person, firm or corporation operating a commercial establishment catering to the public by offering live band music, singers or other form of live entertainment, and which shall, in addition to said live entertainment, permit consumption of alcoholic beverages on the premises and does not hold a valid beverage license of any classification permitting

consumption of said alcoholic beverages on said premises, shall pay a license fee of twenty-five dollars per day for each day of operation in addition to any other license fees now required by law. Such licenses herein required shall be issued by the division of beverage for a period of less than thirty days.

(b) Said premises shall be subject to all general laws and special laws and municipal ordinances regulating the hours of opening and closing as provided for vendors of alcoholic beverages.

(c) The enforcement of this chapter shall be under the division of beverage and the division is hereby authorized to make such necessary rules and regulations to enforce the provisions hereof.

Section 6, Chapter 561, Florida Statutes, is amended by adding new section 561.342 to read:

561.342 County and municipal license tax; caterers, clubs, manufacturers, distributors, exporters and vendors.—

(1) Twenty-two percent (22%) of the license taxes imposed under section 561.34, subsections (1), (2), (3), (6), (7), and section 561.35 collected within the county shall be returned to the appropriate county tax collector.

(2) Thirty-four percent (34%) of the license taxes imposed under section 561.34, subsection (1), (2), (3), (6), (7), and section 561.35 collected within an incorporated municipality shall be returned to the appropriate municipal officer.

(3) No tax on the manufacture, distribution, exportation, transportation, importation or sale of such beverages shall be imposed by way of license, excise or otherwise, by any municipality, anything in any municipal charter, special or general law to the contrary notwithstanding.

Section 7, Section 561.35, Florida Statutes, is amended to read:

561.35 License fees; manufacturers, distributors, exporters.—

(1) Each manufacturer authorized to do business under the beverage law shall pay an annual license tax as follows:

(a) If engaged in the manufacturing or bottling manufacture of wines and of nothing else, a state license tax of one thousand fifty dollars.

(b) If engaged in the manufacturing manufacture of wines and cordials and of nothing else, a state license tax of two thousand one hundred dollars.

(c) If engaged in the business of brewing malt liquors and nothing else, a state license tax of three thousand seven hundred dollars.

(d) If engaged in the business of distilling spirituous liquors and nothing else, a state license tax of four thousand seven hundred and fifty dollars.

(e) If engaged in the business of rectifying and blending spirituous liquors and nothing else, a state license tax of four thousand twelve hundred and fifty dollars.

(f) Persons licensed hereunder in the business of distilling spirituous liquors may also engage in the business of rectifying and blending spirituous liquors without the payment of an additional license tax.

(g) All persons licensed under paragraphs (a), (b), (c), (d), and (e) of this subsection shall be deemed manufacturers within the meaning of the beverage law.

(h) There shall be a separate license tax for each manufacturing plant or establishment operated in the state even though the same manufacturer operates more than one manufacturing plant or establishment.

(i) Each distributor who shall distribute beverages containing alcohol of more than one percent by weight and not more than three and two tenths percent by weight, in counties where the sale of intoxicating liquors, wines and beers is prohibited, for each and every establishment or branch he may conduct, shall pay an annual state license tax of one thousand two hundred fifty two hundred dollars.

(j) Each distributor who shall sell beverages containing alcohol of more than one percent by weight and not more than

fourteen percent by weight, and wines regardless of alcoholic content, in counties where the sale of intoxicating liquors, wines and beers is permitted, shall pay for each and every such establishment or branch he may operate or conduct a state license tax of one thousand two hundred fifty two hundred dollars.

(k) All other distributors authorized to do business under the beverage law shall pay a state license tax of four thousand twelve hundred fifty dollars for each and every establishment or branch they may operate or conduct in the state; provided, that in counties having a population of fifteen thousand or less according to the latest state or federal census the state license tax for a restricted license shall be one thousand three hundred fifty dollars, but the holder of such a license shall be permitted to sell only to vendors and distributors licensed in the same county, and such license shall contain such restrictions. In such counties licenses without such restrictions may be obtained as in other counties but the tax for a license without such restrictions shall be the same as in other counties. Warehouses of a licensed distributor used solely for storage, located in the county in which license is issued to such distributors, shall not be construed to be separate establishments or branches.

(2) Each exporter as defined in section 561.14(1), shall pay an annual state license tax of five hundred one hundred twenty-five dollars for each and every establishment or branch that such exporter may operate or conduct in this state.

(2) Each manufacturer, distributor and exporter shall pay an annual county license tax equal to the state license tax.

(3) All licenses of manufacturers, distributors and exporters shall be issued annually and shall run from October 1 to the succeeding October 1, except that where a manufacturer, distributor or exporter shall begin business after April 1 in any year he may obtain a license expiring on the succeeding October 1 upon the payment of one half the tax for such annual license.

Section 8. This act shall take effect July 1, 1971; provided, however, that sections three through seven, inclusive, shall take effect September 30, 1971.

Amendment 2—

On page 21, line 27 insert new Section 8 and re-number remaining sections:

Section 8. Section 561.44(1) and (2) is amended to read:

561.44 Licensing vendors near school or church; zoning regulations in cities and counties.—

(1) Incorporated cities and towns are hereby given the power hereafter to establish zoning ordinances restricting the location wherein a vendor licensed under §561.34 may be permitted to conduct his place of business and no license shall be granted to any such licensee to conduct a place of business in a location where such place of business is prohibited from being operated by such municipal ordinance.

(2) The board of county commissioners of any county of the state may hereafter, by resolution, establish zones or areas, in the territory lying without the limits of incorporated cities or towns, wherein the location of a vendor's place of business licensed under this act may be permitted to be operated; and no license shall be granted to any such licensee to conduct a place of business in a location where such place of business is prohibited from being operated by such resolution, provided, however, that no license under §561.34(3)(a)-(f) shall be granted to a vendor, in the territory lying without the limits of incorporated cities or towns, whose place of business is within twenty-five hundred feet of an established church or school (which distance shall be measured by following the shortest route or ordinary pedestrian travel along the public thoroughfare from the main entrance of said place of business to the main entrance of the church) and, in the case of a school, to the nearest point of the school grounds in use as part of the school facilities; provided further, that where such established church or school be within the incorporated city or town and the applicant for such license, under §561.34(3)(a)-(f), within the county be outside such incorporated city or town, or in another county and outside any other incorporated city or town, then

and in either event such applicant may be granted such license if his place of business be the same or a greater distance from such church or school as required by the ordinance of the incorporated city or town wherein such church or school is located; provided further, that where an established church or school be located in a county outside an incorporated city or town so near the corporate limits of any such city or town that under the ordinances of such city or town a vendor therein shall receive a license under §561.34(3)(a)-(f), within a distance less than twenty-five hundred feet of such church or school, then and in that event any applicant for such license in the county outside such city or town may be issued such license when his place of business is the same or a greater distance from such church or school as any such vendor duly licensed within such incorporated city or town; provided, further, that any such licensed premises located on any populated island the distance from any established church or school shall be two thousand feet. Provided always, that any measurements required by the provisions of this subsection shall be made as heretofore set forth in this subsection.

Amendment 3—

On page 18, strike all of lines 14 through 18 and insert the following:

(1) Twenty-four percent (24%) of the license taxes imposed under section 561.34, subsections (1), (2), (3), (6), (7) and section 561.35 collected within the county shall be returned to the appropriate county tax collector.

(2) Thirty-eight percent (38%) of the license

Amendment 4—

In the title, line 3, strike the entire title, and insert the following:

A bill to be entitled An act relating to beverage taxes and licenses; amending sections 561.46, Florida Statutes, conforming tax rates and reducing the exception to beverage excise taxes for beverages produced from Florida grown products; repealing sections 561.461 and 561.64, Florida Statutes; providing for revision of the state, county and municipal license taxes on dealers in alcoholic beverages; repealing section 561.36 and subsection 561.26(2), Florida Statutes, amending section 561.34, Florida Statutes, amending section 561.35, Florida Statutes, adding new section 561.342, Florida Statutes, to provide for the return of a percentage of the state license tax to the counties and municipalities; amending section 561.44, (1) and (2), Florida Statutes; providing an effective date.

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

SB 9-C, together with the House amendments, contained in the above message, was referred to the Committee on Ways and Means.

The Honorable Jerry Thomas
President of the Senate

June 21, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has passed as amended—

By the Committee on Appropriations—

CS for HB 14-C—A bill to be entitled An act relating to education; amending paragraph (9)(a) of section 236.07, Florida Statutes, as amended by chapter 70-94, Laws of Florida; creating a new section requiring the auditor general to conduct ratio studies; providing that in making assessment ratio studies the auditor general shall consider an inflation-deflation factor; requiring certification of ratio study by April 1 instead of May 1; providing for a board of appeals; providing for delaying the application of the results of the ratio study of assessment levels conducted by the auditor general until the 1972-73 fiscal year; defining one hundred percent (100%) non-exempt assessed valuation; removing the requirement that if the one

thousand one hundred dollars (\$1,100) annual increase for current expenses other than instructional salaries and transportation is not appropriated in full for a given year the minimum required local effort for such year revert to the level required for the year in which current expenses other than instructional salaries and transportation was last fully funded; amending section 236.0725, Florida Statutes, as amended by chapter 70-94, Laws of Florida, delaying the application of the results of the ratio study of assessment levels until the 1972-73 fiscal year; providing that the assessment ratio study shall be conducted only on the real property tax rolls; amending section 236.03, Florida Statutes, by placing allocation of recalculation funds on the same basis as other minimum foundation program funds; providing an effective date.

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

CS for HB 14-C as amended, contained in the above message, was read the first time by title and referred to the Committee on Ways and Means.

On motion by Senator Horne, the Senate reverted to—

INTRODUCTION

On motion by Senator Horne, SB 55-C was admitted for introduction and consideration by the required two-thirds vote of the membership of the Senate. The vote was:

Yeas—85

Mr. President	Daniel	Karl	Saunders
Arnold	Deeb	Knopke	Scarborough
Barron	de la Parte	Lane	Stolzenburg
Barrow	Ducker	Lewis (43rd)	Trask
Beaufort	Graham	Myers	Ware
Bell	Gunter	Ott	Weissenborn
Bishop	Haverfield	Plante	Williams
Brantley	Horne	Poston	Wilson
Childers	Johnson (29th)	Reuter	

Nays—1

Sayler

By unanimous consent Senator Boyd was recorded as voting yea.

By Senators Poston and Horne—

SB 55-C—A bill to be entitled An act relating to the Florida uniform traffic control law; amending §316.138(3)(a)(2), Florida Statutes, to insert a line inadvertently omitted in engrossing; providing an effective date.

Was read the first time by title and referred to the Committee on Transportation.

On motion by Senator Horne, by two-thirds vote, SB 55-C was withdrawn from the Committee on Transportation and placed on the Calendar.

On motions by Senator Horne, by two-thirds vote SB 55-C was read the second time by title and, by two-thirds vote, was read the third time by title, passed and certified to the House. The vote was: Yeas—30 Nays—None

Mr. President	Daniel	Knopke	Sayler
Arnold	de la Parte	Lane	Stolzenburg
Barrow	Ducker	Myers	Trask
Beaufort	Graham	Ott	Ware
Bell	Gunter	Plante	Weissenborn
Bishop	Horne	Poston	Williams
Brantley	Johnson (29th)	Reuter	
Childers	Karl	Saunders	

By unanimous consent Senators Barron and Boyd were recorded as voting yea.

By Senators Horne and Daniel—

SB 56-C—A bill to be entitled An act making the industrial relations commissioners full time; establishing a board of review for unemployment compensation; providing an effective date.

SB 56-C was determined by the President to be within the purview of the call of the Governor, was read the first time by title and referred to the Committee on Governmental Efficiency.

Senator Daniel moved that the rules be waived and the Committee on Governmental Efficiency be permitted to meet at 9:00 a.m., June 23 in Senate Room 31, for the purpose of considering SB 56-C. The motion was adopted by the following vote:

Yeas—32

Arnold	Beaufort	Bishop	Brantley
Barron	Bell	Boyd	Broxson

Childers
Daniel
de la Parte
Ducker
Gong
Graham

Gunter
Haverfield
Hollahan
Horne
Johnson (34th)
Karl

Knopke
Lane
Lewis (33rd)
Lewis (43rd)
McClain
Pope

Poston
Saunders
Scarborough
Stolzenburg
Trask
Williams

Nays—8

Deeb
Henderson

Johnson (29th)
Ott

Plante
Reuter

Sayler
Wilson

On motion by Senator de la Parte, by two-thirds vote, the Committee on Ways and Means was granted permission to consider bills relating to taxes contained in all messages from the House of Representatives at a meeting on June 23 at 8:00 a.m.

On motion by Senator Barron, the Senate adjourned at 4:22 p.m. to reconvene at 10:00 a.m., June 23, 1971.